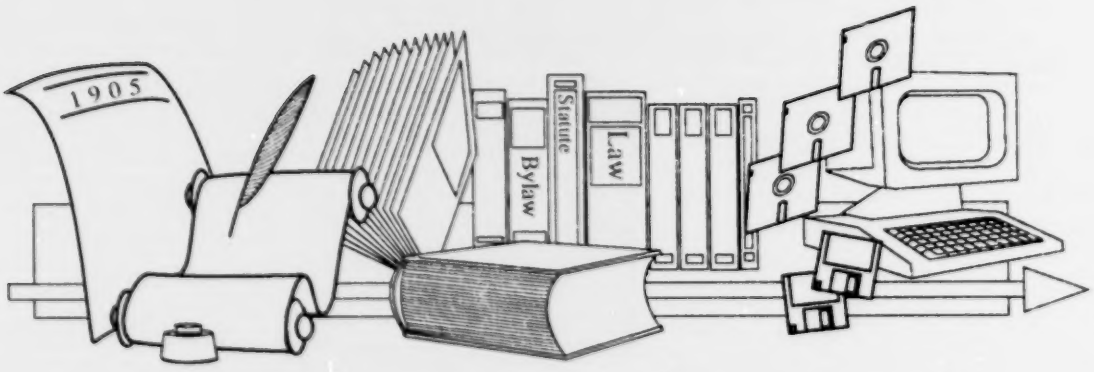
Legislation Paper Nos. 1 to 6

Second Discussion Draft

"The Municipal Government Act"

Local Autonomy, You Want It, You Got It.

Response Deadline: December 15, 1990



Alberta

Municipal Statutes Review Committee

CAUTIONARY NOTE

THIS DRAFT IS THE WORK OF THE COMMITTEE AND ITS RESOURCE PEOPLE. IT HAS NOT BEEN REVIEWED OR APPROVED BY THE GOVERNMENT PRIOR TO PUBLICATION. THE DRAFT IS IN TRANSITION. WHILE YOU ARE READING IT AND MAKING YOUR COMMENTS, THE COMMITTEE AND ITS RESOURCE PEOPLE WILL BE REFINING AND IMPROVING IT THROUGHOUT AND PARTICULARLY IN THE FINANCE AREA. Following review of the comments received on this paper the Committee will be making its report to the Minister of Municipal Affairs.

On the following pages you will find:

- an introductory narrative
- a review of the trends affecting municipal government
- a special insert showing Part 4 and Schedule 2 of the Act written to describe the "Commission" option
- the main draft of the new Act showing the "Committee" option.

Because this draft is so different from the existing Act no attempt has been made to provide a section number cross-reference between the two. The Committee thinks that would be an unproductive use of time.

In order to assist in reviewing the draft, the Committee Secretariat is willing to consider briefing sessions for groups of municipalities. These may be arranged by calling the Secretariat at the number below.

Comments on this report should respond to the issues raised in the draft, indicate a preference for the Committee or Commission option and identify any concerns that you may have in reading the draft.

COMMENTS MUST BE SUBMITTED NO LATER THAN DECEMBER 15 to:

Municipal Statutes Review Committee
17th Floor CityCentre
10155 102 Street
Edmonton, Alberta T5J 4L4

Telephone (403) 427-8861 **FAX (403) 420-1016**

91-00308/

BEFORE YOU START

This looks like a lot of paper ... and it is! On the following pages is a whole NEW Municipal Government Act for Alberta!

During the past year and a bit tens of thousands of copies of Legislation Discussion Papers have been distributed for comment and hundreds of letters have been written to the Committee providing advice. This paper is the direct result of that process.

But this paper is not like anything you have seen before ... nor is it like any existing municipal legislation in Canada. It is a brand new approach for the province to consider in carrying out its constitutional responsibility for "municipal Institutions".

This paper starts with an introductory narrative describing the trends and developments which have influenced the Committee's thinking. The remainder of the paper is a draft Act.

In reading this draft you will notice that it is very different from what you have seen before. There has been a conscious attempt to simplify both language and sentence structure. Sections deal with individual subjects. The organization of topics into parts is also different than what you have seen before. The Committee sees understandable legislation as an important element of its recommendations for a Municipal Government Act suited to the 21st century. Both the words and the organization of the Act are intended to help the average reader understand the law. The Committee would welcome comments on whether that has been achieved and any suggestions you might have on how the drafting of the final recommendation could be improved.

There are two key innovations which you need to think about in evaluating this draft. One is **NATURAL PERSON POWERS** and the other is **SPHERES OF JURISDICTION** as the way of delegating bylaw-making powers.

NATURAL PERSON POWERS means that a municipality can do anything that you as an individual can do subject to the limitations in the Act. This has enabled removal of all the sections in the existing Act which address hiring employees, acquiring buildings and equipment, entering into contracts and so on. For example, using its natural person powers a municipality could acquire and dispose of land. That power is limited by requirements that a proposed disposition of property at less than market value would require advertising which would allow a petition for a vote on the proposal.

The **SPHERES OF JURISDICTION** approach enables a general description of the areas in which municipalities can make bylaws without listing in exhaustive detail every subject on which a bylaw can be enacted. In reading this proposal you will need to consider whether these spheres include all the subjects on which a municipality needs to have bylaw-making authority in order to effectively and responsively govern.

Both of these proposals are related to the Committee's objective to have legislation describe what a municipality may do but to eliminate as much detail as possible on how it must do those things.

All of these provisions are subject to the normal constitutional provision of the superiority of provincial or federal legislation in the same subject area. It is suggested, however, that wherever possible municipal bylaws should be interpreted as complementary to provincial law and only if that is not possible should the provincial law prevail.

A new approach on how bylaws can be challenged is also proposed, consistent with the inherent policy of giving greater respect for and autonomy to make bylaws. In view of the increasing importance of municipal bylaws it seems appropriate that the Court of Appeal deal with challenges to bylaws in a way which will develop a firm and principled approach - one which the Committee is confident will reflect its underlying philosophy.

Comparing this draft with either the existing Act or to previous proposals is difficult. Schedule 2 provides examples of the relationship of the proposals to existing bylaw powers.

YOU NEED TO THINK ABOUT THESE PROPOSALS SERIOUSLY BEFORE MAKING YOUR COMMENTS ON THE PROPOSED ACT. Every time you want to say "*this is missing*" you need to question whether it is included in the natural person powers or the spheres of jurisdiction.

The Committee is aware that you need some time to make comments on these proposals but it is also aware of the window of opportunity to make this new proposal and get it in place before the 1992 local elections. That's important so that people running in 1992 will know what their powers will be if elected.

So we need your comments, probably faster than you would like to make them, by December 15, 1990. Read the following **Environmental Scan** and then explore this proposal for a **NEW Municipal Government Act.**

AN ENVIRONMENTAL SCAN

In order to make its legislation recommendations the Committee has had to make some assumptions regarding the type of environment in which municipalities will be operating. This task has been made much easier by the current fascination with futures related studies at the onset of the last decade of the century and the millennium. The Committee wishes to acknowledge submissions made to it and presentations made at recent conferences of the Federation of Canadian Municipalities and the Canadian Association of Municipal Administrators from which much of the following material has been drawn.

Perhaps the most reliable projections are those regarding demography. Projections for North America generally indicate declining population during the first half of the next century unless immigration rates increase dramatically. In order to maintain the level of population, Canada will basically need to double its immigration rate. In recent years the predominant share of immigrants has shifted from European/United States people to Asian/West Indian. It is also predicted that the majority of new jobs in the next couple of decades will be in the services and retail sectors of the economy.

During the amazing 1989-90 period there have been dramatic shifts world-wide from autocratic toward participatory forms of government. In North America the shift is from representative toward participatory forms of democracy.

During the first half of 1990 much of the attention of Canadians was focussed on the Meech Lake round of constitutional negotiations. While the ultimate result of those negotiations is not entirely clear, it appears that provinces for some years are likely to be occupied with reaching agreements with the federal government on appropriate areas of jurisdiction. It also appears that such agreements are likely to be reached in at least more open forums if not by way of some sort of public participation.

Advancing technology is likely to encourage these trends as it increasingly facilitates fast, comprehensive opinion polling. People generally are demanding more input into public decision-making. Special interest groups are becoming more active and perhaps more powerful. Such groups are not afraid to go to court or to take other very public actions to oppose impending or actual decisions by governments.

Technological advances will enable the rapid processing of huge volumes of information at speeds which no amount of clerical or professional staff could hope to equal. The increasing availability and simplicity of home computers will enable more members of the general public to undertake such analysis by themselves. This will result in participatory activities bolstered by much more information than has been available in the past.

A further consequence of this shift is that the socialism vs. capitalism debate is being muted as many economies and governments adopt programs that blend those two concepts. Support for the truly needy combined with appropriate rewards for entrepreneurial activity is becoming a world-wide phenomenon. Municipalities are facing increased demands for "soft" services related to babies, teenagers, adults and seniors at that same time as they are being required to reinvest in infrastructure. Meanwhile, as the costs of new programs take priority, other orders of government, particularly at the federal level, are increasingly preoccupied with deficit reduction programs.

Networking of computers will reduce proprietorship of information. This, coupled with the general trend toward "flatter" organizational structures. will have significant implications for traditional municipal operations. Departmentalization is becoming not only meaningless but anathema for the general public. Governments are increasingly required to find coordinated techniques to deliver services to their customers, the general public, who are interested in the quality of the service, not whose authority it is to deliver or to regulate.

There is a growing belief that we are reaching a threshold beyond which the burden of taxation will become generally unacceptable. The public is demanding more accountability from all governments. Support for "user pay" programs is growing. In the future municipalities must be able to access non-traditional sources of revenue if they are to maintain service levels. There is a growing trend towards ensuring a public share in the equity in private sector developments arising from public investment in infrastructure and other governmental activities.

The predominant issue of our times is the environment. All governments are being drawn into policy and program development to deal with overflowing dumps, discoloured air and the protection of pure water which is THE symbol of the environmental issue. Frequently other orders of government initiate programs that impose responsibilities on municipalities which may not match community priorities or may impose unanticipated expenditures. There is a growing movement to link economic development policies with environmental policies through "roundtables" which forge new partnerships to respond to social, environmental and economic issues.

Finally, there is a definite shift in public expectations regarding government services. People are now less concerned with quantity than they are with quality, a shift from more to better. This is further complicated by the general trend to understand quality as whatever the customer, or citizen, thinks it is. Supreme Court decisions, particularly related to the Charter of Rights, have been perceived by some as promoting the idea that anything can be justified under it rather than reinforcing reliable standards in society.

Impact on Municipalities

These projections have major implications for the operations of municipalities. Population growth will likely involve a change in the population mix. Municipalities will have increasing interest in programs and activities that promote inter-racial/multicultural understanding. Competition for services workers will be hot. Municipalities will have to find ways to retain a competent workforce or to otherwise ensure adequate human resources for service delivery through contracting out or joint ventures with other governments or private organizations.

Intermunicipal cooperation, new forms of public/private partnerships, and interest in service quality irrespective of political responsibility, are all leading to the increasing irrelevancy of either inter-jurisdictional or organizational boundaries. Municipalities must have considerable flexibility in the future to respond individually, in partnership with other governments or in joint ventures with the private sector. They also must have the flexibility to reap the benefits of the competitive advantages which they enjoy, enabled to sell at a profit goods, services and information which they are best able to supply.

Municipal government systems must enable municipalities to use new technologies and develop new techniques for citizen participation. Empowering legislation should protect the public nature of local government decision-making but should also enable the use of emerging technologies in the decision-making process.

Empowering legislation should not impose rigid organizational structures on municipalities. While standard corporate requirements are necessary, the internal organization of a municipality should be locally determined so that it may easily adapt to emerging management techniques and practices. Municipalities should be expected to accept and exercise their powers in a responsible fashion.

Empowering legislation should also enable municipal councils to respond to the great issues of the times. At present the issue is the environment in which municipalities have considerable direct involvement. The next great issue is not known but councils must not be disabled from exercising local leadership on local issues of importance to the electors.

Qou Vadis

In its Phase I report, **"Municipal Government in Alberta: A review of yesterday and today; A proposal for tomorrow"**, the Committee wrote:

> *"Much of our legislation arises, however, from times when horses pulled ploughs through fields and the aroma of Grandma's baking rolls scented city streets. Today combines are computer controlled and buildings hermetically sealed. Life, in both urban and rural environments, is complex beyond the wildest dreams or fears of our forefathers"*

It is in the spirit of responding to this changing environment, and what it can understand of the future, that the Committee makes its proposal for a new Municipal Government Act. Much of what is proposed goes far beyond the simple improving of the Alberta system of municipal government which the Committee originally envisioned. There has been a conscious attempt to develop visionary legislation which will put Alberta in a leadership position in municipal governance for the remainder of this century at least. The emphasis in the Committee's proposal is on how municipal governments function, with considerable provision for flexibility as to their form.

The Committee understands that grappling with the concept of legislation which empowers, but does not detail how the powers are to be exercised, is challenging, fraught with the potential for misunderstanding, and requires a whole new understanding of the purpose of municipal legislation.

To be true to its terms of reference, however, "recommending legislation appropriate to Alberta municipal government ... into the 21st century", the Committee could do no less than creatively mix the imagination, fears and frustrations expressed in the countless submissions made to it into a NEW Municipal Government Act for Alberta.

In the words of one participant in a public forum conducted by the Minister's Advisory Council on the Local Development Initiative:

> *"Stop telling us what's best for us - recognize that local people know their own unique environment and their own particular needs. Watch over provincial interests (e.g. general resource management) but open doors to more autonomy in local issues."*

ANNEXATION

In August the Committee issued a Special Issue Paper briefly reviewing two alternative annexation procedures. Option A, the Committee Option, had been developed in previous legislation discussion papers. Option B, the Commission Option, explored a more radical departure from our traditional annexation procedures.

The results of the comments received may be summarized as:

Option A	20%
Option B	70%
Status Quo or Other	10%

A considerable number of respondents indicated that they favoured the relative simplicity of the Commission approach but would have appreciated a somewhat more detailed description of the Commission Option.

The primary effect of adopting either of these options would appear in Part 4 and in Schedule 2 of the draft Act. The Committee Option is shown in the main draft. The Commission Option is shown on the insert. Readers will find it useful to compare the flow charts of the incorporation and annexation procedures for a summary description of the differences between the two alternatives.

Readers therefore have a second chance to consider which of the approaches they would like to have included in the Committee's final recommendation to the Minister.

COMMENTS

Comments on this report should be submitted **no later than December 15, 1990, to:**

Municipal Statutes Review Committee
17th Floor CityCentre
10155 102 Street
Edmonton, Alberta T5J 4L4

Telephone (403) 427-8861 FAX (403) 420-1016

LOCAL GOVERNANCE COMMISSION OPTION

REPLACING PART 4
AND SCHEDULE 2
OF THE RECOMMENDED
MUNICIPAL GOVERNMENT ACT

PART 4

HOW IS A MUNICIPALITY FORMED AND REFORMED?

28 Purpose of the Part

The purpose of this Part is

(a) to give the public a reasonable opportunity to participate in the incorporation and annexation process,

(b) to give municipalities and other local authorities[9] an opportunity to comment on proposed municipal incorporation and annexation, and

(c) to provide an effective and efficient means of establishing municipal government entities in Alberta and, when necessary, of dissolving them.

SUB PART 1

ESTABLISHING AND CHANGING MUNICIPALITIES

29 Purpose of this Sub Part

The purpose of this Sub Part is to set out the general rules for establishing and changing certain municipalities and the steps to be taken to incorporate them.

9 The words "local authorities" are deliberately left undefined. It is not intended that there be any limit on the kinds of local authorities commenting on proposed municipal incorporations.

30 Ministerial guidance

The Minister may establish principles, standards and criteria about the viability of municipalities in order to guide consideration of the incorporation, dissolution and amalgamation and changes to the boundaries and status of municipalities.

31 Respect for municipal agreements about boundaries

When 2 or more municipalities sign an agreement about their common boundaries, the Minister may order that any recommendation made to the Minister about the boundaries respect the agreement.

Division 1

Establishing municipalities

32 What kinds of municipality can be established under this Act?

The following municipalities can be established under this Act:

(a) a municipal district;

(b) a village;

(c) a summer village;

(d) a town;

(e) a city;

(f) a special municipality, being a combination of the municipalities described in this section, a modification of them or a new form of municipality given a status appropriate to its

form.[10]

33 What are the general rules for municipal incorporation under this Act?

(1) In order to establish viable municipalities that are capable of generating local leadership and providing and paying for necessary and desirable facilities and services, as a general rule

(a) a municipal district can be established for an area in which

(i) a majority of the buildings[11] in the area are on parcels of 1850 square metres or larger, and

(ii) there is a population of 1000 or more;

(b) a summer village can be established for an area in which, at the time the petition is presented,

(i) there are 75 separate buildings that have been occupied as dwellings at any time in the 6 months preceding the date on which incorporation proceedings were initiated under this Part,

(ii) a majority of the inhabitants of the area do not permanently reside in the proposed summer village, and

(iii) there is a population of less than 300;

(c) a village can be established for an area in which

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10 Other forms of municipality can be incorporated or established under separate legislation. Counties are established under the Counties Act; a park town under the Park Towns Act; improvement districts under the Improvement Districts Act and special areas under the Special Areas Act.

11 "Buildings" here means <u>any</u> buildings. Contrast it with "buildings that have been occupied as dwellings at any time . . ." in clause (b)(i).

(i) there is a population of 300 or more, and

(ii) a majority of buildings in the area are on parcels smaller than 1850 square meters;

(d) a town can be established for an area in which

(i) a majority of buildings in the area are on parcels smaller than 1850 square metres, and

(ii) there is a population of 1000 or more;

(e) a city can be established for an area in which

(i) a majority of buildings in the area are on parcels smaller than 1850 square metres, and

(ii) there is a population of 10,000 or more.

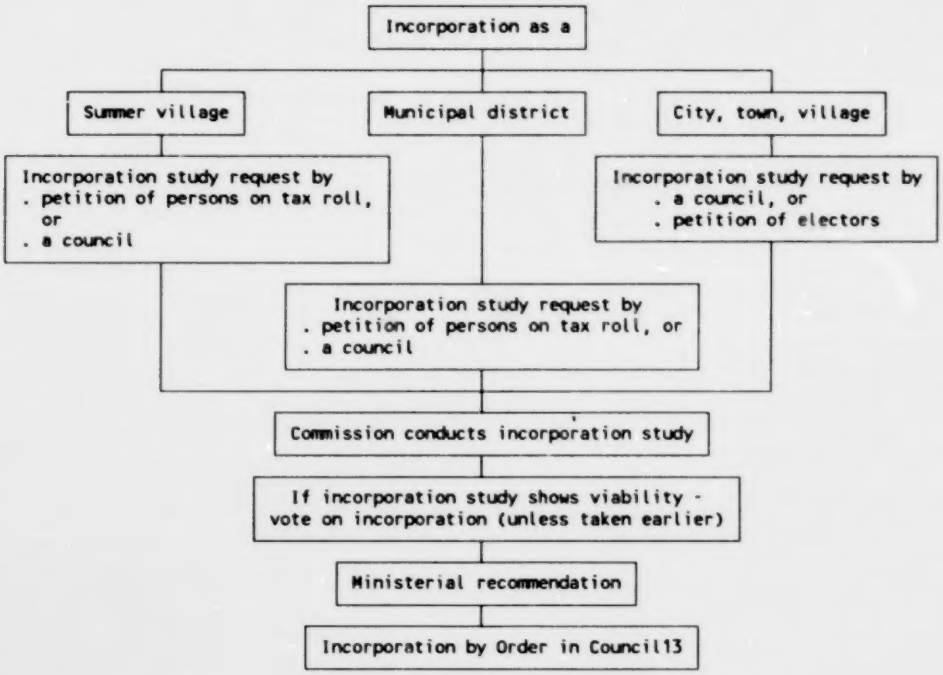
(2) The general rules for incorporation can be modified by the Minister only when there is, in the Minister's opinion, a justifiable reason for doing so.

(3) References later in this Sub Part to the "general rules for incorporation" means the general rules described in subsection (1) as they are modified, if at all, by the Minister for what is in the Minister's opinion a justifiable reason.[12]

34 Steps to municipal incorporation

The usual process for municipal incorporation under this Act follows these steps (which are described in more detail in the sections which follow):

12 A "justifiable reason" could include situations where the population does not quite reach the required level but it is clear that it will in the near future.



Division 2

Incorporation study

35 Request for incorporation study

(1) An incorporation study request for a summer village can be made to the Local Governance Commission - established under Schedule 2

13 For incorporation as a special municipality (see sections 38(2) and 42(4)).

(a) by a majority of the persons whose names are on the tax roll[14] of land inside the boundaries of the proposed summer village sending a petition[15] to the Commission, or

(b) by a council.

(2) An incorporation study request for a municipal district can be made to the Local Governance Commission

(a) by a majority of the persons whose names are on the tax roll of land inside the boundaries of the proposed municipal district sending a petition to the Commission, or

(b) by a council.

(3) An incorporation study request for a city, town or village may be made to the Local Governance Commission

(a) by a petition of electors numbering at least 30% of the population resident inside the boundaries of the proposed city, town or village, or

(b) by a council.

36 Authorization for incorporation study

(1) If the Local Governance Commission is satisfied that the general rules for incorporation[16] of a proposed municipality are met the Commission may undertake an incorporation study to be done including

14 "tax roll" is not yet defined. It will probably have a definition similar to the commonly understood meaning.

15 The rules for submitting petitions start at section 13.

16 The "general rules for incorporation" are described in section 33.

(a) an assessment of the financial viability of the proposed municipality,

(b) the probable impact of the incorporation on existing municipalities and school authorities,

(c) the overall viability of

(i) the proposed municipality operating as a separate entity,

(ii) any municipality remaining after incorporation to continue to operate as a separate entity,

(d) consideration of sound land use planning principles as they relate to the proposal, and

(e) any other issues directed by the Minister.

(2) During the incorporation study

(a) all municipalities and school authorities affected by the proposed incorporation must be told about the study,

(b) comments from the public must be invited,

(c) at least one public meeting must be held to discuss the implications of the study, at which time a vote on the proposed incorporation can be taken, and

(d) any other issues included in the guidelines for incorporation of municipalities prescribed by the Minister must be considered.

(3) The Local Governance Commission must send its incorporation report to the Minister and to the municipalities and school authorities affected by the study.

(4) The Minister may determine who is to pay the cost of an incorporation study.

37 Vote on incorporation

(1) If the incorporation study

(a) shows that the proposed municipality and any remaining municipalities would be viable, and

(b) is otherwise satisfactory to the Minister,

the Minister must hold a vote of those persons who would be electors in the proposed municipality if it was incorporated, unless subsection (4) applies.

(2) The vote must be held

(a) in accordance with the *Local Authorities Election Act*, or

(b) if in the opinion of the Minister the procedure of the Act should be modified, in accordance with the Act as modified by directions issued by the Minister.

(3) The *Regulations Act* does not apply to directions issued by the Minister under subsection (2).

(4) A vote on the incorporation question need not be held if the Minister is satisfied that the vote taken at a public meeting conducted during the incorporation study fairly represents the opinion of the persons affected by the study.

Division 3

Incorporation of municipalities

38 Ministerial recommendation

(1) The Minister may recommend to the Lieutenant Governor in Council

that a city, town, village, summer village or municipal district be established after considering

(a) the incorporation study,

(b) the vote on the incorporation question,

(c) whether the general rules for incorporating a municipality under this Act are met, and

(d) any other matter the Minister considers appropriate.

(2) The Minister may recommend to the Lieutenant Governor in Council that a special status municipality be established after considering

(a) the incorporation study,

(b) any vote on the incorporation question, and

(c) any circumstances which make incorporation as a special form of municipal government desirable.

39-41 Spare section numbers

42 Incorporation by order in council

(1) On the recommendation of the Minister, the Lieutenant Governor in Council may incorporate a city, town, village, summer village, municipal district or a special municipality.

(2) The incorporation order[17] must

(a) describe the boundaries of the municipality,

17 The incorporation order can also deal with taxation, assessment election and other matters under section 44.

(b) give the municipality the status of "city", "town", "village", "summer village", "municipal district", or a special status described in the order, and

(c) give the municipality an official name and may authorize the municipality to use a variation of its official name.

(3) When a municipal district is incorporated, the Minister must

(a) state the number of councillors on its council, and

(b) describe the wards in the municipal district.

(4) When a special municipality is incorporated

(a) the Minister may

(i) state the number of councillors on its council, and

(ii) if necessary, describe the wards in the municipality, and

(b) the Lieutenant Governor in Council may do all or any of the following:

(i) specify the provisions of this or other enactments that do not apply to the special municipality, or that apply with or without modifications;

(ii) specify any provisions which are to be added to or replace the provisions of this or other enactments;

(iii) prescribe matters or conditions which govern the functions, powers and duties of the special municipality.

43 Orders of the Lieutenant Governor in Council implementing boundary commission recommendations

On the recommendation of the Minister, the Lieutenant Governor in Council may do whatever is necessary to carry out the recommendations of a boundaries commission, or any of them, with or without changes, including

(a) making an order incorporating a municipality under section 42,

(b) annexing land to a municipality under section 63, or

(c) dissolving, amalgamating or otherwise dealing with a municipality under this or another enactment or directing the Minister to do so.

44 Consequential matters following incorporation

(1) The Lieutenant Governor in Council may, in the order incorporating a municipality or subsequently, make any provision necessary about the newly incorporated municipality or the municipality from which it was formed respecting

(a) assessment or taxation of land;

(b) any matter required to properly effect or deal with the incorporation, or matters resulting from it, transitional or otherwise;

(c) the retroactive or prospective application of all or any provision of the order, despite this or other enactments;

(d) the modification of any provision of this or other enactments to give effect to the order or deal with a difficulty arising from the order or the application of this or other enactments to the incorporation or matters resulting from it.

(2) When an order incorporating a municipality has been made by the

Lieutenant Governor in Council, the Minister may

(a) direct the transfer of assets, liabilities, rights and interests from one municipality to another as the case requires, and

(b) direct that elections be held in the newly incorporated municipality.

45 Effect of incorporation

(1) On the effective date of the Lieutenant Governor in Council's order of incorporation, a municipality

(a) becomes a corporation with all the rights, powers and privileges of an individual, except as they are modified or restricted by its corporate status or by this or other enactments, and

(b) has the functions, duties and powers of a municipality under this and other enactments.

(2) An incorporated municipality is composed of its electors.

46 Amendments to incorporation order

On the recommendation of the Minister, the Lieutenant Governor in Council may amend any provision of an order incorporating a municipality or an order made as a consequence of the incorporation.

47 Summer villages

(1) All of the provisions of this or other enactments that apply to villages apply to summer villages, except that, in a summer village,

(a) the organizational meeting of the council must be held not later than August 31 in any year, and

(b) a reference in this Act to "population" as it relates to a petition is a reference to the total number of persons eligible to vote at an election for summer village councillors.

(2) If it appears to the Minister to be difficult or impossible to apply the provisions of this or other enactments to one or more summer villages, the Minister may decide any question arising through the difficulty or impossibility.

48 Boundaries

(1) When part of the boundary of a municipality is described by reference to the boundary of a township or section of surveyed land along which a road allowance runs, the boundary is the side of the road allowance on which monuments or posts are placed under any survey

(a) except in the case of correction lines, when the south side of the road allowance is the boundary, or

(b) unless the description otherwise specifies.

(2) When a road is the boundary of a municipality and land is acquired to widen it, the land acquired is within the boundaries of the municipality.

(3) A road allowance between an Indian Reserve and a municipality is in the municipality, despite anything to the contrary in this section.

(4) When the boundary of a municipality is wholly or partly described by a river, the right bank of the river facing downstream is the boundary, unless the description otherwise specifies.

(5) In subsection (1) "***survey***" and "***surveyed land***" mean a survey made under the *Surveys Act* or the *Canada Lands Surveys Act*.

Division 4

Change of status

49 Ministerial recommendation

The Minister may recommend to the Lieutenant Governor in Council that the status of a city, town, village, summer village, municipal district or special municipality be changed

(a) if

(i) a majority of the electors in the municipality want the change, or

(ii) the municipality no longer meets the general rules for its incorporation, or if the reasons for incorporating a special municipality no longer exist,

(b) if the council

(i) requests the Minister to make a recommendation, or

(ii) has been told by the Minister that the Minister intends to recommend another status for it, and

(c) if the municipality meets the general rules for incorporation of its proposed status, or circumstances exist requiring it to become a special municipality.

50 Order changing status

(1) On the recommendation of the Minister, the Lieutenant Governor in Council may change the status of a municipality.

(2) The Lieutenant Governor in Council may, in an order under subsection (1) or in a subsequent order, make the same order that

can be made under sections 42 or 44.

SUB PART 2

ANNEXATION OF LAND

51 Purpose of this Sub Part

The purpose of this Sub Part is to provide ways of altering the boundaries of municipalities to ensure efficient and effective long range planning and responsive and accountable municipal government.

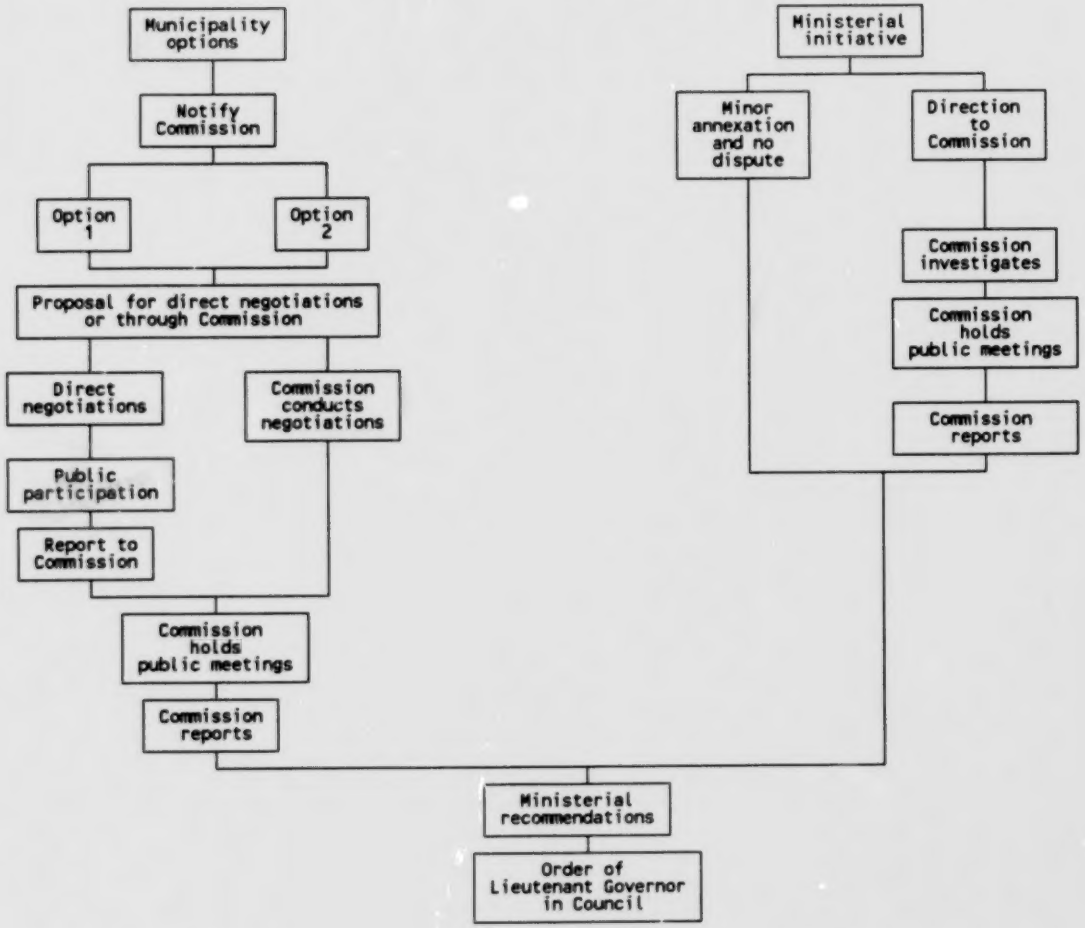
Division 1

Annexation process

52 Steps in annexation proceedings[18]

Annexation of land from one municipality to another occurs in one of the ways illustrated below (which are subsequently described in more detail in this Sub Part):

18 Under sections 120 to 122 of the *Local Authorities Board Act* owners of land in an urban municipality can apply to the Local Authorities Board to have their land removed from the urban municipality.


Municipality options
Notify Commission
Option 1
Option 2
Proposal for direct negotiations or through Commission
Direct negotiations
Commission conducts negotiations
Public participation
Report to Commission
Commission holds public meetings
Commission reports
Ministerial initiative
Minor annexation and no dispute
Direction to Commission
Commission investigates
Commission holds public meetings
Commission reports
Ministerial recommendations
Order of Lieutenant Governor in Council

53 Proposal for annexation proceedings

(1) Annexation proceedings by a council must be started by a municipality giving written notice of its proposal to apply to annex land to

(a) the one or more other municipalities affected, and

(b) the Local Governance Commission.

(2) The notice must state whether the initiating municipality wishes

(a) to negotiate the annexation of land directly with the one or more other municipalities affected, or

(b) the Commission to convene negotiations.

(3) The notice must include

(a) a description of the land affected by the proposal, and

(b) the reason for the proposal.

(4) If the notice proposes direct negotiations then it must also include suggestions for public notice, meetings with the owners of the land affected, and proposals for keeping the owners informed about the progress of negotiations.

(5) A copy of a notice under this section must be given to every school authority affected by the proposal and to the regional planning commission, if any, within which the land is located.

54 Negotiations in good faith

(1) After receipt of a notice proposing direct negotiations about annexation, the municipalities concerned must meet to discuss the proposal and negotiate in good faith.

(2) If a municipality does not meet or negotiate the proposal in good faith any other municipality concerned may ask the Local Governance Commission to take over as convenor of the negotiations, and the Commission must do so.

(3) The initiating municipality must keep the Commission informed of the progress of negotiations.

55 After negotiations

(1) After direct negotiations, hearings and meetings are over the affected municipalities must complete a negotiation report that

(a) describes the result of negotiations between the initiating municipality and other affected municipalities,

(b) describes the public consultation process involved in the preparation of the report,

(c) lists the matters agreed to by the municipalities,

(d) lists the matters on which there is no agreement between the municipalities, and

(e) summarises the view of the public expressed in the public consultation process.

(2) The negotiation report must be

(a) signed by all the municipalities, or

(b) certified by the initiating municipality as an accurate statement of its contents explaining why, in its opinion, other municipalities have not signed it.

56 Paying for the negotiation report

(1) If the municipalities cannot agree on who is to pay for all or a proportion of the negotiation report any of them may apply to the Local Governance Commission to decide the matter and its decision is binding.

(2) In making its decision the Local Governance Commission must take into account the actions of the municipalities during negotiations.

57 The next step

(1) After a negotiation report is finished the municipality initiating the direct negotiations for annexation must submit the report to the Local Governance Commission and provide a copy to the municipalities, school authorities and regional planning commission affected.

(2) The Commission must review the negotiation report to ensure that any principles for annexation prescribed by the Minister have been followed.

58 Spare section number

Division 3

Hearings, recommendations and decisions

59 Annexation application to Local Governance Commission

(1) If the notice under section 50 requests the Local Governance Commission to convene negotiations, the Commission must do so.

(2) Following completion of the negotiations the Local Governance Commission must issue an annexation report.

60 Annexation hearing and recommendations

(1) After the Commission receives a negotiation report, or issues an annexation report, the Commission must ask the initiating municipality if it wishes to apply for annexation.

(2) If the initiating municipality makes an application, the Commission must hold one or more public meetings in the area affected by the proposal.

(3) After considering any representations made at a public meeting, and previous reports, negotiations agreements and representations made to it the Commission must report to the Minister and the report

(a) must recommend whether or not land should be annexed to the boundaries of a municipality,

(b) may include recommended terms and conditions, and

(c) may recommend any matters necessary or desirable to implement its recommendations,

and the Commission must provide a copy of its report to the municipalities affected.

61 Ministerial recommendation

(1) The Minister may recommend to the Lieutenant Governor in Council that land be annexed to a municipality on any terms and conditions considered appropriate after receiving a report from the Local Governance Commission.

(2) In preparing recommendations, the Minister must be guided by the report of the Local Governance Commission and if the Minister proposes to make substantially different recommendations to those in the report the Minister must inform the affected municipalities before making the other recommendations to the Lieutenant Governor in Council.

62 Minor annexations

If an annexation is, in the Minister's opinion, of a minor nature and there is no dispute about it the Minister may recommend to the Lieutenant Governor in Council that land be annexed to a municipality at any time.

63 Annexation order

On the recommendation of the Minister, the Lieutenant Governor in Council may

(a) annex land to a municipality;

(b) for the purpose of phasing in the effects of an order under this section, require a municipality

(i) to share its revenue with another municipality, or

(ii) share in paying the costs of another municipality;

(c) require the annexed land to be assessed on any basis or principle of assessment for any period considered appropriate;

(d) impose other terms or conditions considered necessary including all or any of those described in sections 42 and 44, dealing with incorporation and consequential matters following incorporation.[19]

19 For example, provisions about assessment, election and taxation matters.

SUB PART 3

DISSOLUTION OF MUNICIPALITIES AND EFFECT OF ANNEXATION AND DISSOLUTION ORDERS

64 Purpose of this Sub Part

The purpose of this Sub Part is to provide a means to dissolve municipalities, when appropriate, and deal with matters resulting from dissolution and annexation in an efficient manner.

Division 1

Dissolution

65 Ministerial recommendation

(1) Upon receipt of a report from the Local Governance Commission the Minister may recommend to the Lieutenant Governor in Council that a city, town, village, summer village, special municipality or municipal district be dissolved if

(a) the municipality is unable to balance municipal revenues with required municipal expenditures,

(b) the municipality ceases to meet the general rules for its incorporation, or

(c) a council has not been elected.

66 Dissolution order

(1) On the recommendation of the Minister, the Lieutenant Governor in Council may dissolve a city, town, village, summer village, special municipality or municipal district.

(2) An order of dissolution may

(a) transfer land from the administration of the dissolved municipality to another municipality;

(b) make orders to deal with, dispose of, or transfer, assets, liabilities, taxes and agreements, or direct the Minister to do so;

(c) decide other matters when they are not or cannot be dealt with in accordance with this Part;

(d) deal with all or any of the matters referred to in sections 42 or 44.

67 Assets and liabilities of dissolved municipalities

(1) If the liabilities of a dissolved municipality are more than its assets the Minister may authorize the successor of the dissolved municipality to impose a tax on the land previously in the former municipality to pay for the liabilities.

(2) A tax imposed under subsection (1) is, for the purposes of Part 7 (Finance), a special tax.

Division 2

Effect of dissolution and annexation orders

68 Effect of transfer of administration or annexation of land[20]

(1) When an order under this Part annexes land or transfers the

20 The effect of transfer of administration or annexation orders on supply contracts, franchises and exclusive use agreements is dealt with starting at section 185.

administration of land from one municipality (the "old municipality") to another (the "new municipality"), unless the order otherwise directs,

(a) the new municipality, with respect to the land affected by the order, becomes the successor of the old municipality in all respects;

(b) taxes due with respect to the land affected by the order and remedies for their collection pass to the new municipality, and on collection must be paid to the old municipality, unless the entire old municipality is dissolved in which case the taxes collected are to be retained by the new municipality;

(c) land affected by the order that is designated or required to be provided as a public utility parcel, environmental reserve, municipal reserve or municipal and school reserve under the Planning Act becomes vested in the new municipality;

(d) despite the Labour Relations Code, each employee of the old municipality whose duties were substantially related to the land affected by the order becomes an employee of the new municipality with the rights and duties provided by the new municipality;

(e) on the effective date of the order, the old municipality ceases to have any authority with respect to the land affected by the order;

(f) bylaws and resolutions of the old municipality that apply specifically to the land affected by the order continue to apply to it until they are repealed or others are made in their place by the new municipality.

(2) If the entire old municipality forms the entire new municipality

(a) the councillors of the old municipality continue as the councillors of the new municipality until their successors are sworn into office, and

(b) bylaws and resolutions of the old municipality continue as bylaws and resolutions of the new municipality until they are repealed or others are made in their place by the new municipality.

(3) Nothing in this section prejudices the rights of debenture holders.

(4) An order under this Part may also

(a) authorize the council of the new municipality to levy a special tax on the land transferred or annexed to meet debentures issued by the old municipality in respect of that land;

(b) deal with and make any provision necessary to protect the rights of any person in the land transferred or annexed.

(5) This section does not apply to agreements, franchises and rights described in sections 185 to 192.[21]

69 Transfer land and property ownership

When an order under this Part requires the ownership of land or property to be transferred to a municipality the Minister may do whatever is necessary to effect the transfer.

70 Regulations Act not to apply

The *Regulations Act* does not apply to an order of the Lieutenant Governor in Council or the Minister made under this Part.

21 These sections deal with exclusive franchises and rights and supply agreements for public utilities.

71 Orders published

(1) An order of the Lieutenant Governor in Council and the Minister under this Part must be published in the Alberta Gazette.

(2) Publication of an order of

(a) the Lieutenant Governor in Council, or

(b) the Minister,

made under this Part is conclusive proof of the fulfilment of the conditions precedent to the Ministerial recommendation and conditions precedent to the Lieutenant Governor in Council's order.

Schedule 2

Local Governance Commission

1 What is the purpose of the Commission?

The purpose of the Local Governance Commission is to facilitate resolution of any issue or dispute between municipalities by the municipalities themselves.

2 Establishment of Commission

(1) The Local Governance Commission is established.

(2) On the recommendation of the Minister, the Lieutenant Governor in Council may appoint, as members of the Commission, a person to chair the Commission and 4 other persons.

(3) Before making recommendations on the membership of the Commission the Minister must consult the Presidents of the municipal associations.

(4) Membership on the Commission may exceed 5 if the Minister makes temporary appointments under section 4(2).

3 Restrictions on appointees

(1) A person who holds elected office in any government is not eligible to be recommended or appointed as a member of the Commission.

(2) If a member of the Commission is elected to an office in a government the person's membership on the Commission automatically terminates.

4 Term of office

(1) The term of office of a member of the Commission is 5 years, except as provided in subsection (2) and (4).

(2) Members of the Commission may be reappointed, and the Minister may direct that a member whose term expires but who is not reappointed may still continue to serve as a temporary member until a report has been made on an issue with respect to which the member has participated.

(3) A person continued as a temporary member is considered to be a member of the Commission for all purposes.

(4) The first appointments of members must be made so that the initial term of office of one member expires each year.

5 Vacancies

A vacancy in the membership of the Commission is to be filled for the unexpired term in the same manner as the original appointment was made.

6 Fees and expenses

The person chairing the Commission and each member must be paid

(a) for their services and

(b) their reasonable and necessary travelling and living expenses while absent from their ordinary place of residence in the course of their duties as members of the Commission,

at the rates prescribed by the Minister.

7 Powers and duties of the Commission

The Commission may

(a) help municipalities to solve differences between them;

(b) investigate, analyze and make findings of fact about the probable effect on municipalities and on the people residing in an area of a proposal to

(i) enter into revenue, cost or tax sharing agreements between municipalities or any combination of them,

(ii) incorporate a new municipality,

(iii) annex land from one municipality to another,

(iv) change the status of a municipality,

(v) amalgamate two or more municipalities, or

(vi) dissolve a municipality;

(c) initiate or pursue the resolution of a dispute between 2 or more municipalities;

(d) perform any other function the Minister directs.

8 Guidance by the Minister

In exercising its powers, duties and functions the Commission must be guided by any principles, standards or criteria established by the Minister either generally or about a particular matter.

9 Procedural matters

The Commission

(a) may make rules of procedure for the conduct of its business;

(b) must keep a record of its proceedings and maintain and preserve its papers and records.

10 How does the Commission operate?

(1) A majority of the members of the Commission constitute a quorum.

(2) A panel of not less than 3 members may conduct any hearing, public meeting, or investigation and make any report required of the Commission.

(3) The temporary absence of a panel member from a hearing or public meeting does not disqualify the member from participation in the report or from voting on the matter.

(4) The Commission must hold one or more hearings or public meetings at which any affected person may appear before the Commission makes a report, except for a report on matters described in sections 7(c) and (d) for which it may hold hearings or public meetings if it concludes that that public discussion would assist in the preparation of its report.

(5) The Commission must publish a notice of any hearing or public meeting at least once a week for 2 consecutive weeks in a newspaper or other publication circulating in the affected area and the second notice must be not less than 6 days before the hearing.

11 Jurisdiction of Commission

(1) A municipality may request the Commission to assist in the negotiation of any agreement between it and one or more other municipalities.

(2) Every application to

(a) establish, dissolve or change the status of a municipality,

(b) amalgamate 2 or more municipalities,

(c) annex land to or separate land from a municipality

must be made to the Commission.

(3) Upon receipt of a request or application, the Commission

(a) must notify all the local authorities which, in the opinion of the Commission, would be affected by the matter,

(b) may do anything necessary to facilitate negotiations to reach an agreement on the subject, including acting as or designating a person as mediator, conciliator, facilitator or fact finder,

(c) may conduct investigations, analyze local needs, hold hearings or public meetings as described in section 4(4), make findings of fact and recommendations,and

(d) as a normal rule, no later than 6 months after receipt of a request must make a report on its findings and recommendations, but the time for submitting a report may be extended with the agreement of the majority of the affected municipalities.

(4) All expenses of negotiations, except the normal expenses of the Commission, are the responsibility of the municipality which made the request or application unless otherwise agreed to by the affected municipalities.

12 Termination of proceedings

(1) The Commission must declare negotiations in which it is involved to be terminated if

(a) it finds that none of the parties are willing to continue to negotiate,

(b) 3 months have elapsed with no substantial progress toward an agreement, or

(c) 12 months have elapsed from the original request or application to the Commission,

unless the majority of the parties agree that negotiations should continue or resume, as the case may be.

(2) The Commission must make its report to

(a) the affected municipalities in the case of a request and provide a copy of the report to the Minister, or

(b) to the Minister in the case of an application, and provide a copy of the report to the affected municipalities and other local authorities in the case of an application.

13 Implementing recommendations of the Commission

The Lieutenant Governor in Council or the Minister may make any orders and give any directions necessary to implement the recommendations in a report of the Commission.

MUNICIPAL STATUTES REVIEW COMMITTEE

RECOMMENDED

MUNICIPAL GOVERNMENT ACT

How to read this Act

1 This Act is about local autonomy

The ability of a municipality to look after its own affairs in an efficient, effective, responsive and accountable way.

2 How is the Act organized?

The Act is divided into 9 Parts, most of which are further subdivided. There are 5 Schedules at the end of the Act.

For a general overview of the purpose of the Act look at sections 1 and 2.

To look up a particular topic, turn to the "Contents" (2 pages further on). There you will find section numbers which will direct you to the topic you want.

Footnotes are included in the draft to help you find your way around it and to give examples of how the Act works.

3 Tips to help you understand the Act

To understand how this Act works you should forget two basic concepts of municipal law. Forget the concepts

(a) that a municipality can do only those things an Act says it can do, and

(b) that bylaws can be made only if there is specific authority given in an Act to make the bylaw.

Under this Act municipalities are given the same privileges and powers as ordinary individuals. This means that, within the basic minimum rules laid down in the Act, a municipality can do anything you can do as an individual. No longer can a municipality "only do what the Act says it can do".

An ordinary person cannot make laws. That is why legislation authorizes municipal councils to make bylaws. In the past, bylaw making power has been described in considerable detail. But not in this draft. Instead "spheres of jurisdiction" are created within which, as long as there is no conflict with Provincial or Federal laws, a municipality has complete bylaw making powers.

The *Municipal Government Act* affects the Province in a significant way. About 25% of all Alberta legislation has some kind of reference to municipalities.

Because of this and because the Act will be read and interpreted by a wide range of people having diverse interests the Committee directed that the drafting style be direct and understandable. The need for accuracy in writing the law must be balanced with clarity in the way in which the Act is written.

Is this draft understandable?

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RECOMMENDED
MUNICIPAL GOVERNMENT ACT

(Enacting words)

PART 1

WHY DO WE HAVE THIS ACT?

1 What is the purpose of this Act?

The purpose of this Act is to establish a framework for efficient, effective, responsive and accountable municipal government that will

(a) enable necessary and desirable services and facilities to be provided to people and property, and

(b) enable the development of safe, viable and pleasing communities.

2 How is the Act organized?

The Act is organized into 9 Parts as follows:

(a) **Part 1, "Why do we have this Act?"** describes the purpose of the Act and describes how it is organized. It also gives an overview of the contents of the rest of the Act;

(b) **Part 2, "What do I need to know before I read this Act?"** describes the basic rights, functions and duties of municipalities and how councils can carry them out;

(c) **Part 3, "How can I influence what my municipality does?"** describes what municipal information can be obtained, rules for presenting petitions and says how petitions can affect council decisions;

(d) **Part 4, "How is a municipality formed and reformed?"** has the following purposes:

- *to give the public a reasonable opportunity to participate in the incorporation and annexation process,*

- *to give municipalities and other local authorities an opportunity to comment on proposed municipal incorporation, and*

- *to provide an effective and efficient means of establishing municipal government entities in Alberta and, when necessary, of dissolving them.*

(e) Part 4 is divided into 3 Sub Parts:

(i) **Sub Part 1, "Establishing and changing municipalities"**, which describes the general rules for establishing and changing certain municipalities and the steps to be taken to incorporate them.

(ii) **Sub Part 2, "Annexation of land"**, which has the following purpose:

- *to provide ways of altering the boundaries of municipalities to ensure efficient and effective long range planning and responsive and accountable municipal government.*

(iii) **Sub Part 3, Dissolution of municipalities and effect of incorporation, annexation and dissolution orders**, which has the following purpose:

- *to provide a means to dissolve municipalities when appropriate and to deal with matters resulting from dissolution and annexation in an efficient manner.*

(f) **Part 5, "How do councils work?"** which is divided into 3 Sub Parts:

(i) **Sub Part 1, "Establishment of councils, councillors, terms of office and wards"**, which has the following purpose:

- *to create councils*

. *to do those things necessary to govern the community for which they are elected in a responsible way, and*

. *to provide necessary services and facilities to people and property,*

balancing the interests of the community as a whole and the interests of individuals in the community,

(ii) **Sub Part 2, "Council proceedings",** which has the following purpose:

- *to establish a framework for responsible decision making by councils,*

(iii) **Sub Part 3, "What happens if a councillor or a member of a councillor's family has a conflict of interest?"** which has the following purpose:

- *to ensure the integrity of councillors and guide them in their conduct if they or certain family members have a pecuniary interest in a matter before council.*

(g) **Part 6, "What kind of things can a municipality do?"** which is divided into 3 Sub Parts:

(i) **Sub Part 1, "Spheres of jurisdiction",** the purpose of which

- *is to give councils law making powers and describe their general jurisdiction, in addition to the rights, powers and privileges they have as a result of their incorporation,*

(ii) **Sub Part 2, "Municipal Administration",**

(iii) **Sub Part 3, "Corporate activities of municipalities",**

(h) **Part 7, "How does a municipality pay, and account, for what it does",**

(i) **Part 8, "What else is there to say?"** describes the legal liability of municipalities, sets out offences and penalties and deals with various miscellaneous matters,

(j) **Part 9, "Transitional provisions and consequential amendments"** describes the transition from former Acts to this one and describes what amendments are needed to other Acts.

PART 2

WHAT DO I NEED TO KNOW BEFORE I READ THIS ACT?

3 Specially defined words and phrases

Some commonly used words and phrases in this draft have special meanings. Schedule 1 of this draft sets out those special meanings.[1]

4 What functions, duties and powers do municipalities have?

Municipalities

(a) have the rights, powers and privileges of an individual[2], except as they are modified or restricted by the corporate status of the municipality or by this or other enactments,[3]

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1 The Interpretation Act also defines words for use in Provincial legislation. Those definitions apply to this draft unless the context otherwise requires.

2 "individual" is used here in the sense of a single human being

3 "enactments" means any Act of the Legislature or regulation made under an Act. (see s 28(1)(e) Interpretation Act)

(b) have the functions that are described in this and other enactments and those that the municipality decides for itself as a matter of policy,

(c) have the duties that are imposed on them by this and other enactments[4] and those that the municipality imposes on itself as a matter of policy, and

(d) have the power to make law by passing bylaws under this and other enactments.

5 Council's authority and limits on delegation

(1) The powers given to a municipality by this and other enactments can be exercised by its council.

(2) The only functions, duties and powers a council cannot delegate are

(a) its bylaw making powers, and

(b) duties imposed by this or other enactments to hear appeals or conduct public hearings.

(3) Despite subsection (2)(b), council committees[5] can hear appeals or hold public hearings instead of council if

(a) the committee is permitted by this or the relevant enactment to do so[6], and

4 For example, municipalities must pass budgets every year. Other Acts also impose duties on municipalities. For example the Planning Act requires every municipality to have a land use bylaw.

5 "Council committee" is defined in Schedule 1 to include committees appointed by council composed of councillors only, a mixture of councillors and others, or persons who are not councillors.

6 For example if an elector wants a council document and the request is refused the elector can appeal to council, or if council authorizes a council committee to hear the appeal the appeal is to the committee, and its decision is final. (See section 10.)

(b) the committee is authorized to do so by council.

6 Ultimate responsibility for municipal activities rests with council

Whether or not a function, power or duty is delegated, the council is responsible for making sure that

(a) the functions and duties of the municipality are carried out, and

(b) the powers of the municipality are appropriately exercised.

PART 3

HOW CAN I INFLUENCE WHAT MY MUNICIPALITY DOES?

Division 1

Access to information

7 Annual and public meetings

(1) Everyone is entitled to attend

(a) annual meetings arranged by the municipality to discuss the affairs of the municipality in the previous year, if an annual meeting is held, and

(b) public meetings called to discuss the affairs of the municipality.

(2) If an annual or other public meeting is held it must be advertised.[7]

8 What information can I ask for from my municipality?

An elector or taxpayer may ask to look at, or for a copy of, anything in a municipality's possession.

9 What information must a municipality provide?

(1) A municipality must comply with the request of an elector or taxpayer to

(a) look at, during normal business hours, anything approved by or placed before council or a council committee, and

(b) obtain a copy of all or part of those things in accordance with the request, on payment of the prescribed fee,

unless the thing is exempted from viewing or copying under subsection (3).

(2) A municipality need not allow an elector or taxpayer to look at or obtain copies of any other thing, but may do so on any conditions it considers appropriate.

(3) A council may exempt all or any of the following from viewing by the public and from copies being made for the public, either generally or on a case by case basis:

(a) an opinion or report of the municipal solicitor or a lawyer engaged by the municipality;

(b) a report about the negotiation of an agreement, during the time that the negotiation is being conducted;

7 The rules for advertising public meetings are contained in section 159.

(c) a report to council or a council committee before it is submitted to council or the committee;

(d) a report given to a private council meeting or a private council committee meeting;

(e) a portion of an agreement that, in the opinion of the chief administrative officer, contains technical or commercial information the release of which could jeopardize the future competitive position of a person;

(f) a personnel file;

(g) anything provided to the municipality in confidence that the chief administrative officer considers should remain in confidence;

(h) the assessment and tax rolls of the municipality, except when this or another enactment requires them to be available for public inspection.

10 Can I appeal if an information request is refused?

(1) If a request by an elector or taxpayer to look at information in the possession of a municipality is refused or is not answered within 14 days of the date it is received by the municipality, the elector or taxpayer may appeal in writing to the council.

(2) A council may direct that a council committee hear an appeal under subsection (1), either generally or on a case by case basis.

(3) The decision of the council or the council committee, as the case may be, is final.

11 How can I make a presentation at public hearings?

(1) If a public hearing is held on a proposed bylaw, resolution or other

matter, the council must hear

(a) any person, group of persons, or person representing them, who claim to be affected by the proposed bylaw, resolution or other matter and who has complied with the procedures outlined in the notice of the hearing, and

(b) any other person who wishes to make representations and whom the council agrees to hear.

(2) After considering the representations made to it about a proposed bylaw or resolution at a public hearing and considering any other matters it considers appropriate, the council may

(a) make any amendments it considers necessary to the bylaw or resolution, if any, and proceed to pass it, or

(b) defeat the proposed bylaw or resolution.

(3) A summary of the public hearing must be recorded in the minutes of the regular or special meeting of the council during which the public hearing is held.

12 What can I do if there may have been wrongdoing in municipal affairs?

(1) The Attorney General may appoint a person to make an inquiry if

(a) electors equal in number to at least 10% of the population of a municipality present a petition to the Attorney General, or

(b) a council passes a resolution addressed to the Attorney General,

requesting that an inquiry be made into any matter described in subsection (2).

(2) The inquiry may relate to

(a) the affairs of the municipality,

(b) the conduct of a councillor, or an employee or agent of the municipality, or

(c) the conduct of a person having an agreement with the municipality in relation to the duties or obligations of the person under the agreement.

(3) The person appointed to make the inquiry

(a) must report to the Attorney General, the Minister and to the council, and

(b) has all the powers of a commissioner appointed under the *Public Inquiries Act*.

(4) The person appointed to make the inquiry must be paid the fees and expenses specified by council.

Division 2

Petitions

13 What can I petition about?

Electors of a municipality may petition the council about anything that is a function, power or duty of the municipality, except matters in relation to Part 7 (Finance), unless a petition is specifically authorized by that Part.

14 When is a petition "sufficient" to require council action?

A petition of electors

(a) is sufficient if it relates to a matter on which a petition is

allowed to be submitted, complies with this and other relevant enactments, and is declared to be sufficient under this Division;

(b) is not a valid petition if

(i) it relates to a matter on which a petition is not allowed to be submitted,

(ii) it is not declared to be a sufficient petition under this Division, or

(iii) it does not comply with the requirements of this or other enactments for the petition.

15 How many petitioners are required?

(1) When a petition is permitted or required under this or another enactment it must be signed by the required number of electors.

(2) If the petition is not required to be signed by a minimum number of electors under other provisions of this or another enactment[8] then, to be sufficient, it must be signed

(a) for a municipality having a population of less than 10,000, by electors equal in number to at least 10% of the population;

(b) for a municipality having a population of 10,000 or more but less than 100,000, by electors equal in number to at least the greater of

(i) 1000, or

(ii) 5% of the population;

8 One example where other numbers of petitioners are specified in this Act is the request for an incorporation study to report on the viability of creating a municipality (see section 35).

(c) for a municipality having a population of 100,000 or more, by electors equal in number to at least the greater of

(i) 5000, or

(ii) 3% of the population.

16 Requirements for a petition

(1) A petition permitted or required under this or another enactment must consist of one or more pages, each of which must contain an identical statement of the purpose of the petition.

(2) The petition must include, for each petitioner,

(a) a printed surname and printed given names or initials,

(b) the petitioner's signature,

(c) the street address of the petitioner or the legal description of the land on which the petitioner lives, and

(d) the date on which the petitioner signs the petition.

(3) Each signature must be witnessed by an adult person who must

(a) sign opposite the signature of the petitioner, and

(b) take an affidavit that to the best of the person's knowledge the signatures witnessed are those of electors.

(4) Every petition must have attached to it a signed statement of a person whose name appears on the petition stating that

(a) the person is the representative of the petitioners, and

(b) the municipality may direct any inquiries about the petition to the representative.

17 Counting petitioners

(1) Every petition must be filed with the municipality which must count the number of petitioners that have signed the petition and determine the sufficiency of it.

(2) No name can be added to or removed from a petition after it has been filed with the municipality.

(3) In counting the number of petitioners on a petition there must be excluded the name of a person

(a) whose signature appears on a page of the petition that does not have the same purpose statement that is contained on all the other pages of the petition,

(b) whose signature is not witnessed,

(c) whose street address or legal description of land or name is not set out or is incorrect,

(d) in the case of a petition restricted to certain persons

(i) who is not one of those persons, or

(ii) whose qualification as one of those persons is not, or is incorrectly, described or set out, or

(e) who signed the petition more than 60 days before the date on which the petition was filed with the municipality.

(4) If 5000 or more petitioners are necessary to make a petition sufficient a municipality may establish a statistical sampling method to determine the sufficiency of the petition instead of counting and checking each petitioner.

18 Report on sufficiency of petition

(1) Within 30 days of the date on which a petition is filed with a municipality the chief administrative officer must report to the council on whether the petition is sufficient or insufficient.

(2) A petition is deemed to be received by the council on the day the chief administrative officer reports the petition to be sufficient.

19 Petition for public meeting

(1) Within 30 days after a municipality receives a sufficient petition requesting a public meeting, or a council meeting, the chief elected official must call a meeting to discuss the matters stated in the petition.

(2) Notice of the meeting must be advertised.

Division 3

Plebiscites on bylaws and resolutions

20 Petition to amend or repeal a bylaw or resolution

(1) A petition requesting an amendment or repeal of a bylaw or resolution has no effect unless it is filed with the municipality within 60 days after the day on which that bylaw or resolution is passed.

(2) If the council receives a sufficient petition requesting an amendment or repeal of a bylaw the council must hold a plebiscite on the matter within 60 days of the petition being declared sufficient.

(3) Council need not conduct a plebiscite if the amendment or repeal of a bylaw or resolution requested by the petition is passed before the plebiscite is held.

21 2 or more bylaws advertised at one time

When a council advertises 2 or more bylaws or resolutions in a single notice a separate petition must be filed with respect to each bylaw or resolution in respect of which an amendment or repeal is requested.

22 Petition to pass a new bylaw or resolution

(1) Within 30 days of receiving a sufficient petition requesting a new bylaw or new resolution the council must

(a) give 1st reading to a bylaw or table a motion dealing with the subject matter of the petition, and any other related matters the council considers necessary, and

(b) fix a date for a plebiscite on the bylaw or resolution within 30 days after the date on which the bylaw receives 1st reading or the resolution is tabled.

(2) Council need not conduct a plebiscite if the new bylaw or new resolution requested by the petition is passed before the plebiscite is held.

23 Delaying votes

(1) When

(a) a plebiscite of electors is to be held under this Act, and

(b) the date by which the plebiscite must be held is within 6 months of a general election,

on the request of a council, the Minister by order may direct that the plebiscite be held at the general election, in which case the plebiscite must be held on the date of the general election whether a general election is held or not.

(2) When a council

(a) wants to submit any question or matter to a plebiscite of the electors at a general election or by-election, other than a plebiscite referred to in subsection (1), and

(b) it becomes unnecessary to hold a general election or by-election,

the council may defer the plebiscite to the next general election or by-election or fix some other date for the plebiscite.

24 Conduct of the plebiscite

A plebiscite on a new bylaw or resolution, or a plebiscite on an amendment or repeal of a bylaw or resolution, must be conducted in accordance with the *Local Authorities Election Act* but the notice of the vote must set out

(a) the text of the new bylaw or resolution or amendment to the bylaw or resolution that is to be the subject of the plebiscite, or

(b) a reasonably complete description of the new bylaw or new resolution or the amendment to either of them.

25 Result of plebiscite

(1) If a majority of electors voting in a plebiscite vote in favour of a new bylaw or resolution, the bylaw or resolution as submitted to the vote must be passed by council within 30 days of the date of the vote, without any alteration affecting its substance.

(2) If a majority of electors voting in a plebiscite vote in favour of the repeal or amendment of an existing bylaw or resolution the council must amend or repeal the bylaw or resolution accordingly within 30 days of the date of the vote, without any alteration affecting its

substance.

(3) If a majority of electors voting in a plebiscite

(a) oppose a proposed bylaw or proposed amendment to a bylaw, or the proposed repeal of a bylaw, council must not give the bylaw any further readings and all previous readings are rescinded, or

(b) oppose a proposed resolution or proposed amendment to a resolution or the proposed repeal of a resolution, the resolution is considered to have been defeated by council.

26 1 year moratorium on similar subject matter

If a plebiscite is held on a matter the council may refuse to receive any further petitions on a similar subject matter filed within one year of the date of the plebiscite.

27 Amendments or repeal of plebiscite bylaws

A council may amend or repeal a bylaw or provision of a bylaw passed in accordance with a plebiscite

(a) if it is advertised and 5 years have passed from the date of the plebiscite, or

(b) at any time, if the majority of the electors vote in a plebiscite in favour of the amendment or repeal.

PART 4

HOW IS A MUNICIPALITY FORMED AND REFORMED?

28 Purpose of the Part

The purpose of this Part is

(a) to give the public a reasonable opportunity to participate in the incorporation and annexation process,

(b) to give municipalities and other local authorities[9] an opportunity to comment on proposed municipal incorporation and annexation, and

(c) to provide an effective and efficient means of establishing municipal government entities in Alberta and, when necessary, of dissolving them.

SUB PART 1

ESTABLISHING AND CHANGING MUNICIPALITIES

29 Purpose of this Sub Part

The purpose of this Sub Part is to set out the general rules for establishing and changing certain municipalities and the steps to be taken to incorporate them.

9 The words "local authorities" are deliberately left undefined. It is not intended that there be any limit on the kinds of local authorities commenting on proposed municipal incorporations.

30 Ministerial guidance

The Minister may establish principles, standards and criteria about the viability of municipalities in order to guide consideration of the incorporation, dissolution and amalgamation and changes to the boundaries and status of municipalities.

31 Respect for municipal agreements about boundaries

When 2 or more municipalities sign an agreement about their common boundaries, the Minister may order that any recommendation made to the Minister about the boundaries respect the agreement.

Division 1

Establishing municipalities

32 What kinds of municipality can be established under this Act?

The following municipalities can be established under this Act:

(a) a municipal district;

(b) a village;

(c) a summer village;

(d) a town;

(e) a city;

(f) a special municipality, being a combination of the municipalities described in this section, a modification of them or a new form of municipality given a status appropriate to its

form.[10]

33 What are the general rules for municipal incorporation under this Act?

(1) In order to establish viable municipalities that are capable of generating local leadership and providing and paying for necessary and desirable facilities and services, as a general rule

(a) a municipal district can be established for an area in which

(i) a majority of the buildings[11] in the area are on parcels of 1850 square metres or larger, and

(ii) there is a population of 1000 or more;

(b) a summer village can be established for an area in which, at the time the petition is presented,

(i) there are 75 separate buildings that have been occupied as dwellings at any time in the 6 months preceding the date on which incorporation proceedings were initiated under this Part,

(ii) a majority of the inhabitants of the area do not permanently reside in the proposed summer village, and

(iii) there is a population of less than 300;

(c) a village can be established for an area in which

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10 Other forms of municipality can be incorporated or established under separate legislation. Counties are established under the Counties Act; a park town under the Park Towns Act; improvement districts under the Improvement Districts Act and special areas under the Special Areas Act.

11 "Buildings" here means <u>any</u> buildings. Contrast it with "buildings that have been occupied as dwellings at any time . . ." in clause (b)(i).

(i) there is a population of 300 or more, and

(ii) a majority of buildings in the area are on parcels smaller than 1850 square meters;

(d) a town can be established for an area in which

(i) a majority of buildings in the area are on parcels smaller than 1850 square metres, and

(ii) there is a population of 1000 or more;

(e) a city can be established for an area in which

(i) a majority of buildings in the area are on parcels smaller than 1850 square metres, and

(ii) there is a population of 10,000 or more.

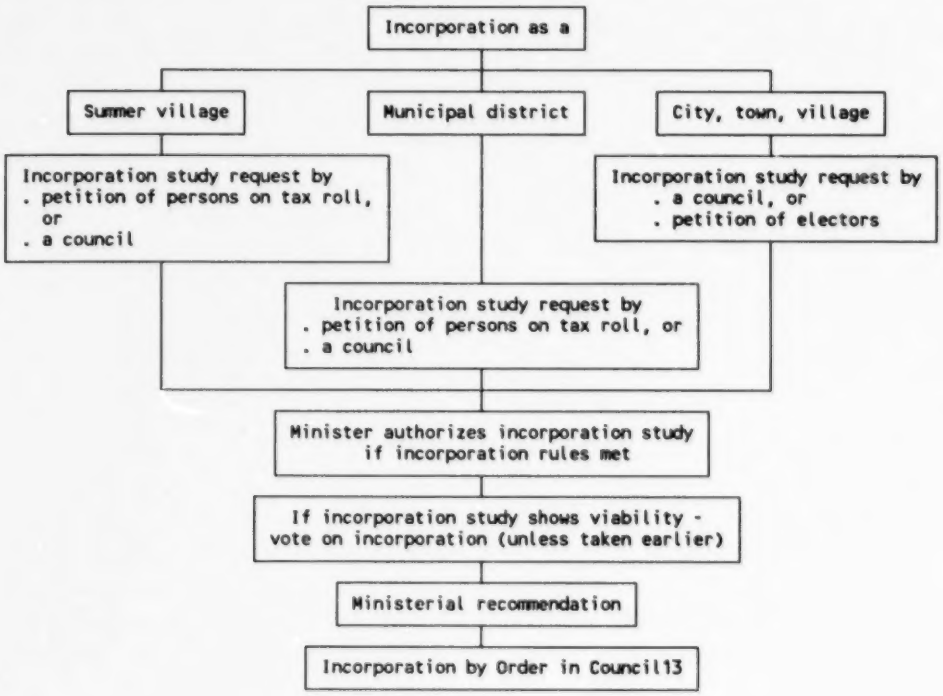
(2) The general rules for incorporation can be modified by the Minister only when there is, in the Minister's opinion, a justifiable reason for doing so.

(3) References later in this Sub Part to the "general rules for incorporation" means the general rules described in subsection (1) as they are modified, if at all, by the Minister for what is in the Minister's opinion a justifiable reason.[12]

34 Steps to municipal incorporation

The usual process for municipal incorporation under this Act follows these steps (which are described in more detail in the sections which follow):

12 A "justifiable reason" could include situations where the population does not quite reach the required level but it is clear that it will in the near future.


Incorporation as a
Summer village
Municipal district
City, town, village
Incorporation study request by
. petition of persons on tax roll,
or
. a council
Incorporation study request by
. a council, or
. petition of electors
Incorporation study request by
. petition of persons on tax roll, or
. a council
Minister authorizes incorporation study
if incorporation rules met
If incorporation study shows viability -
vote on incorporation (unless taken earlier)
Ministerial recommendation
Incorporation by Order in Council13

Division 2

Incorporation study

35 Request for incorporation study

(1) An incorporation study request for a summer village can be made to the Minister

13 For incorporation as a special municipality (see sections 38(2) and 42(4)).

(a) by a majority of the persons whose names are on the tax roll[14] of land inside the boundaries of the proposed summer village sending a petition[15] to the Minister, or

(b) by a council.

(2) An incorporation study request for a municipal district can be made to the Minister

(a) by a majority of the persons whose names are on the tax roll of land inside the boundaries of the proposed municipal district sending a petition to the Minister, or

(b) by a council.

(3) An incorporation study request for a city, town or village may be made to the Minister

(a) by a petition of electors numbering at least 30% of the population resident inside the boundaries of the proposed city, town or village, or

(b) by a council.

36 Authorization for incorporation study

(1) If the Minister is satisfied that the general rules for incorporation[16] of a proposed municipality are met the Minister may authorize an incorporation study to be done including

(a) an assessment of the financial viability of the proposed

14 "tax roll" is not yet defined. It will probably have a definition similar to the commonly understood meaning.

15 The rules for submitting petitions start at section 13.

16 The "general rules for incorporation" are described in section 33.

municipality,

(b) the probable impact of the incorporation on existing municipalities and school authorities,

(c) the overall viability of

(i) the proposed municipality operating as a separate entity,

(ii) any municipality remaining after incorporation to continue to operate as a separate entity,

(d) consideration of sound land use planning principles as they relate to the proposal, and

(e) any other issues directed by the Minister.

(2) During the incorporation study

(a) all municipalities and school authorities affected by the proposed incorporation must be told about the study,

(b) comments from the public must be invited,

(c) at least one public meeting must be held to discuss the implications of the study, at which time a vote on the proposed incorporation can be taken, and

(d) the name proposed for the municipality must be checked to make sure that the *Historical Resources Act*[17] is complied with.

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17 See s14 of the Historical Resources Act which reads:

14(1) The name of any place or other geographical feature in Alberta that

(a) was approved after March 31, 1949 and before January 1, 1975 by the Geographic Board of Alberta under the Geographical Names Act, or

(b) is approved or changed after December 31, 1974 by the Historic Sites Board pursuant to subsection (2),

37 Vote on incorporation

(1) If the incorporation study

(a) shows that the proposed municipality and any remaining municipalities would be viable, and

(b) is otherwise satisfactory to the Minister,

the Minister must hold a vote of those persons who would be electors in the proposed municipality if it was incorporated, unless subsection (4) applies.

(2) The vote must be held

(a) in accordance with the *Local Authorities Election Act*, or

(b) if in the opinion of the Minister the procedure of the Act should be modified, in accordance with the Act as modified by directions issued by the Minister.

(3) The *Regulations Act* does not apply to directions issued by the Minister

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is the authorized name of that place or feature for all purposes.

(2) The Board may, with the consent of the Minister, approve a name for, or approve a change of the name for, any place or other geographical feature in Alberta.

(3) When the Board approves the name or changes the name of any place or other geographical feature under this section, a notice signed by the secretary of the Board setting out the name approved or the change of name and the location of the place or other geographical feature to which the name applies, shall be published by the secretary in The Alberta Gazette.

(4) The Minister may make regulations

(a) prescribing standards and guidelines for the approval of names and changes of names by the Board;

(b) prescribing the duties of the Board with respect to nomenclature;

(c) governing and requiring consultation by the Board with any department, municipality, person or body of persons concerning the naming of, or the changing of the name of, any place or other geographical feature.

under subsection (2).

(4) A vote on the incorporation question need not be held if the Minister is satisfied that the vote taken at a public meeting conducted during the incorporation study fairly represents the opinion of the persons affected by the study.

Division 3

Incorporation of municipalities

38 Ministerial recommendation

(1) The Minister may recommend to the Lieutenant Governor in Council that a city, town, village, summer village or municipal district be established after considering

(a) the incorporation study,

(b) the vote on the incorporation question,

(c) whether the general rules for incorporating a municipality under this Act are met, and

(d) any other matter the Minister considers appropriate.

(2) The Minister may recommend to the Lieutenant Governor in Council that a special status municipality be established after considering

(a) the incorporation study,

(b) any vote on the incorporation question, and

(c) any circumstances which make incorporation as a special form of municipal government desirable.

39 Establishment of boundaries commission

(1) The Lieutenant Governor in Council may appoint one or more boundaries commissions consisting of one or more persons.

(2) The Minister may prescribe the fees and expenses payable to members of a boundaries commission.

(3) A boundaries commission has all the powers of a commissioner under the Public Inquiries Act.[18]

40 Functions and duties of boundaries commission

(1) The function of a boundaries commission is to

(a) make proposals to the Minister about the area and boundaries of municipalities and associated matters;

(b) carry out any other responsibilities given to it by the Lieutenant Governor in Council or the Minister.

(2) A boundaries commission must

(a) tell the municipalities and school authorities that may be affected by its recommendations, about its functions, and

(b) invite comments from the public.

(3) A boundaries commission may recommend

(a) that the boundaries of municipalities be altered;

(b) that land be annexed from one municipality to another;

(c) the establishment, amalgamation or dissolution of

18 Under the *Public Inquiries Act* a commissioner can hire staff and require evidence to be given.

municipalities;

(d) matters necessary or desirable to implement its recommendations.

41 Suspension or termination of annexation or other proceedings

When a boundaries commission is appointed, or at any subsequent time, the Lieutenant Governor in Council may suspend or terminate, on any terms or conditions, an annexation or other proceeding dealing with the boundaries being considered by the commission.

42 Incorporation by order in council

(1) On the recommendation of the Minister, the Lieutenant Governor in Council may incorporate a city, town, village, summer village, municipal district or a special municipality.

(2) The incorporation order[19] must

(a) describe the boundaries of the municipality,

(b) give the municipality the status of "city", "town", "village", "summer village", "municipal district", or a special status described in the order, and

(c) give the municipality an official name and may authorize the municipality to use a variation of its official name.

(3) When a municipal district is incorporated, the Minister must

(a) state the number of councillors on its council, and

(b) describe the wards in the municipal district.

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19 The incorporation order can also deal with taxation, assessment election and other matters under section 44.

(4) When a special municipality is incorporated

(a) the Minister may

(i) state the number of councillors on its council, and

(ii) if necessary, describe the wards in the municipality, and

(b) the Lieutenant Governor in Council may do all or any of the following:

(i) specify the provisions of this or other enactments that do not apply to the special municipality, or that apply with or without modifications;

(ii) specify any provisions which are to be added to or replace the provisions of this or other enactments;

(iii) prescribe matters or conditions which govern the functions, powers and duties of the special municipality.

43 Orders of the Lieutenant Governor in Council implementing boundary commission recommendations

On the recommendation of the Minister, the Lieutenant Governor in Council may do whatever is necessary to carry out the recommendations of a boundaries commission, or any of them, with or without changes, including

(a) making an order incorporating a municipality under section 42,

(b) annexing land to a municipality under section 63, or

(c) dissolving, amalgamating or otherwise dealing with a municipality under this or another enactment or directing the Minister to do so.

44 Consequential matters following incorporation

(1) The Lieutenant Governor in Council may, in the order incorporating a municipality or subsequently, make any provision necessary about the newly incorporated municipality or the municipality from which it was formed respecting

(a) assessment or taxation of land;

(b) any matter required to properly effect or deal with the incorporation, or matters resulting from it, transitional or otherwise;

(c) the retroactive or prospective application of all or any provision of the order, despite this or other enactments;

(d) the modification of any provision of this or other enactments to give effect to the order or deal with a difficulty arising from the order or the application of this or other enactments to the incorporation or matters resulting from it.

(2) When an order incorporating a municipality has been made by the Lieutenant Governor in Council, the Minister may

(a) direct the transfer of assets, liabilities, rights and interests from one municipality to another as the case requires, and

(b) direct that elections be held in the newly incorporated municipality.

45 Effect of incorporation

(1) On the effective date of the Lieutenant Governor in Council's order of incorporation, a municipality

(a) becomes a corporation with all the rights, powers and privileges of an individual, except as they are modified or

restricted by its corporate status or by this or other enactments, and

(b) has the functions, duties and powers of a municipality under this and other enactments.

(2) An incorporated municipality is composed of its electors.

46 Amendments to incorporation order

On the recommendation of the Minister, the Lieutenant Governor in Council may amend any provision of an order incorporating a municipality or an order made as a consequence of the incorporation.

47 Summer villages

(1) All of the provisions of this or other enactments that apply to villages apply to summer villages, except that, in a summer village,

(a) the organizational meeting of the council must be held not later than August 31 in any year, and

(b) a reference in this Act to "population" as it relates to a petition is a reference to the total number of persons eligible to vote at an election for summer village councillors.

(2) If it appears to the Minister to be difficult or impossible to apply the provisions of this or other enactments to one or more summer villages, the Minister may decide any question arising through the difficulty or impossibility.

48 Boundaries

(1) When part of the boundary of a municipality is described by reference to the boundary of a township or section of surveyed land along which a road allowance runs, the boundary is the side of the

road allowance on which monuments or posts are placed under any survey

(a) except in the case of correction lines, when the south side of the road allowance is the boundary, or

(b) unless the description otherwise specifies.

(2) When a road is the boundary of a municipality and land is acquired to widen it, the land acquired is within the boundaries of the municipality.

(3) A road allowance between an Indian Reserve and a municipality is in the municipality, despite anything to the contrary in this section.

(4) When the boundary of a municipality is wholly or partly described by a river, the right bank of the river facing downstream is the boundary, unless the description otherwise specifies.

(5) In subsection (1) "***survey***" and "***surveyed land***" mean a survey made under the *Surveys Act* or the *Canada Lands Surveys Act*.

Division 4

Change of status

49 Ministerial recommendation

The Minister may recommend to the Lieutenant Governor in Council that the status of a city, town, village, summer village, municipal district or special municipality be changed

(a) if

(i) a majority of the electors in the municipality want the change, or

(ii) the municipality no longer meets the general rules for its incorporation, or if the reasons for incorporating a special municipality no longer exist,

(b) if the council

(i) requests the Minister to make a recommendation, or

(ii) has been told by the Minister that the Minister intends to recommend another status for it, and

(c) if the municipality meets the general rules for incorporation of its proposed status, or circumstances exist requiring it to become a special municipality.

50 Order changing status

(1) On the recommendation of the Minister, the Lieutenant Governor in Council may change the status of a municipality.

(2) The Lieutenant Governor in Council may, in an order under subsection (1) or in a subsequent order, make the same order that can be made under sections 42 or 44.

SUB PART 2

ANNEXATION OF LAND

51 Purpose of this Sub Part

The purpose of this Sub Part is to provide ways of altering the boundaries of municipalities to ensure efficient and effective long range planning and responsive and accountable municipal government.

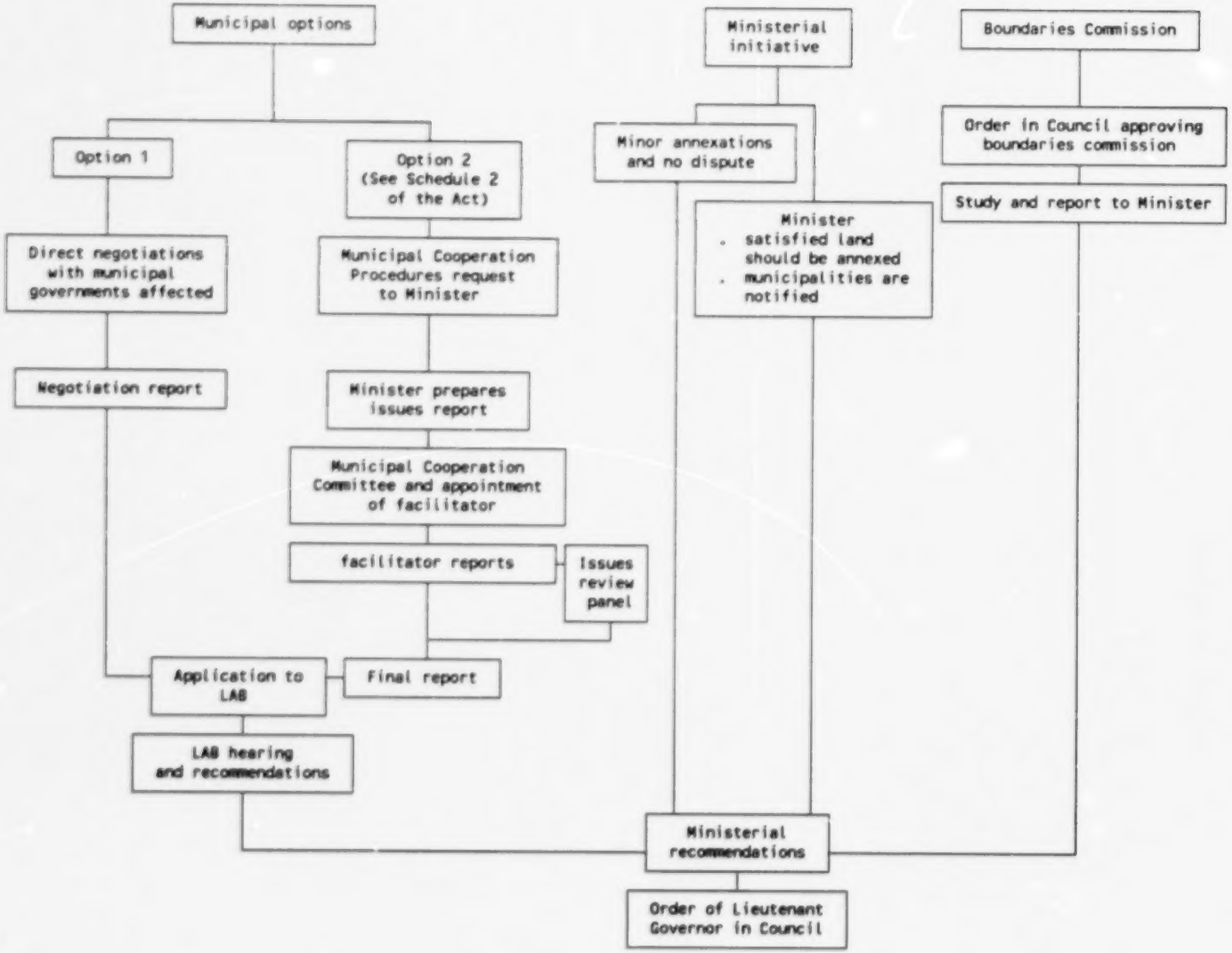
Division 1

Annexation process

52 Steps in annexation proceedings[20]

Annexation of land from one municipality to another occurs in one of the ways illustrated below (which are subsequently described in more detail in this Sub Part):

20 Under sections 120 to 122 of the *Local Authorities Board Act* owners of land in an urban municipality can apply to the Local Authorities Board to have their land removed from the urban municipality.


Municipal options
Option 1
Option 2
(See Schedule 2
of the Act)
Direct negotiations
with municipal
governments affected
Municipal Cooperation
Procedures request
to Minister
Negotiation report
Minister prepares
issues report
Municipal Cooperation
Committee and appointment
of facilitator
facilitator reports
Issues
review
panel
Application to
LAB
Final report
LAB hearing
and recommendations
Ministerial
initiative
Minor annexations
and no dispute
Minister
. satisfied land
should be annexed
. municipalities are
notified
Boundaries Commission
Order in Council approving
boundaries commission
Study and report to Minister
Ministerial
recommendations
Order of Lieutenant
Governor in Council

53 How do municipalities start the annexation process?

(1) Annexation proceedings by a council must be started

(a) by one municipality giving written notice to one or more other municipalities of its proposal to apply to annex land in accordance with Division 2, or

(b) by the municipality applying to the Minister for initiation of municipal co-operation procedures under Schedule 2.

(2) A municipality cannot start or proceed with more than one annexation procedure at any one time respecting the same land but may abandon direct negotiations in favour of applying for initiation of municipal co-operation procedures under Schedule 2.

Division 2

Direct negotiations for annexation

54 Written notice to negotiate

(1) If a municipality wishes to negotiate the annexation of land directly with one or more other municipalities it must

(a) give written notice to every other municipality affected by the annexation proposal, and

(b) give a copy of the notice to every school authority affected by the proposal.

(2) The notice must include

(a) a description of the land affected by the proposal,

(b) the reason for the proposal,

(c) suggestions for public notice and public meetings, and meetings with the owners of land affected by the proposal, and

(d) a statement that the initiating municipality wishes to negotiate the matter directly with the municipalities concerned, with suggestions about how the negotiations should proceed.

55 Negotiations in good faith

(1) After receipt of a notice proposing direct negotiations about annexation, the municipalities concerned must meet to discuss the proposal and negotiate in good faith.

(2) If a municipality does not meet or negotiate the proposal in good faith any other municipality concerned may apply to the Minister for directions on how to proceed.

(3) The Minister may give any directions the Minister considers necessary to expedite or facilitate the process.

56 After negotiations

(1) After negotiations, hearings and meetings are over the affected municipalities must prepare a negotiation report that

(a) describes the result of negotiations between the initiating municipality and other affected municipalities,

(b) describes the public consultation process involved in the preparation of the report,

(c) lists the matters agreed to by the municipalities,

(d) lists the matters on which there is no agreement between the municipalities, and

(e) summarises the view of the public expressed in the public consultation process.

(2) The negotiation report must

(a) be signed by all the municipalities,

(b) be certified by the initiating municipality as an accurate statement of its contents, and

(c) contain an explanation of why, in the municipality's opinion, other municipalities have not signed the report.

57 Paying for the negotiation report

(1) If the municipalities cannot agree on who is to pay for all or a proportion of the negotiation report any of them may apply to the Local Authorities Board to decide the matter and its decision is binding.

(2) In making its decision the Local Authorities Board must take into account the actions of the municipalities during negotiations.

58 The next step

After a negotiation report is finished the municipality initiating the direct negotiations for annexation may apply to the Local Authorities Board in accordance with Division 3.

Division 3

Hearings, recommendations and decisions

59 Annexation application to Local Authorities Board

(1) A municipality may apply to the Local Authorities Board for a recommendation that land be annexed to the municipality.

(2) An annexation application is not complete unless it includes

(a) a negotiation report under Division 2, or

(b) the report of a Municipal Cooperation Committee under Schedule 2,

and such other information as the Local Authorities Board requires.

60 Annexation hearing and recommendations

(1) When the Local Authorities Board receives a completed annexation application

(a) the Board must hold a hearing

(i) on those matters shown in the negotiation report as not agreed to, or shown in the Municipal Cooperation Committee report as unresolved, and

(ii) to hear any matters raised by owners of land affected by the application, and

(b) the Board may hold a hearing on any other matter that it considers necessary.

(2) After a hearing the Local Authorities Board

(a) must recommend to the Minister whether or not land should be annexed to the boundaries of a municipality, with or without terms and conditions,

(b) must give notice of its recommendations to the municipalities affected, and

(c) may recommend matters necessary or desirable for the implementation of its recommendations.

61 Ministerial recommendation for annexation order

The Minister may recommend to the Lieutenant Governor in Council that land be annexed to a municipality on any terms and conditions the Minister considers appropriate

(a) after receiving a recommendation from the Local Authorities Board, or

(b) if the Minister

(i) is satisfied that land should be annexed to a municipality, and

(ii) has informed those municipalities who are affected by the proposed recommendation, that the recommendation will be proposed to the Lieutenant Governor in Council.

62 Minor annexations

If an annexation is, in the Minister's opinion, of a minor nature and there is no dispute about it the Minister may recommend to the Lieutenant Governor in Council that land be annexed to a municipality at any time.

63 Annexation order

On the recommendation of the Minister, the Lieutenant Governor in Council may

(a) annex land to a municipality;

(b) for the purpose of phasing in the effects of an order under this section, require a municipality

(i) to share its revenue with another municipality, or

(ii) share in paying the costs of another municipality;

(c) require the annexed land to be assessed on any basis or principle of assessment for any period considered appropriate;

(d) impose other terms or conditions considered necessary including all or any of those described in sections 42 and 44, dealing with incorporation and consequential matters following incorporation.[21]

SUB PART 3

DISSOLUTION OF MUNICIPALITIES AND EFFECT OF ANNEXATION AND DISSOLUTION ORDERS

64 Purpose of this Sub Part

The purpose of this Sub Part is to provide a means to dissolve municipalities, when appropriate, and deal with matters resulting from dissolution and annexation in an efficient manner.

21 For example, provisions about assessment, election and taxation matters.

Division 1

Dissolution

65 Ministerial recommendation

(1) The Minister may recommend to the Lieutenant Governor in Council that a city, town, village, summer village, special municipality or municipal district be dissolved if

(a) the municipality is unable to balance municipal revenues with required municipal expenditures,

(b) the municipality ceases to meet the general rules for its incorporation, or

(c) a council has not been elected.

(2) Before making a recommendation to dissolve a municipality described in subsection (1) the Minister must

(a) give public notice of the proposed recommendation to the electors of the municipality, and

(b) give notice to the council of the municipality, if any.

66 Dissolution order

(1) On the recommendation of the Minister, the Lieutenant Governor in Council may dissolve a city, town, village, summer village, special municipality or municipal district.

(2) An order of dissolution may

(a) transfer land from the administration of the dissolved municipality to another municipality;

(b) make orders to deal with, dispose of, or transfer, assets, liabilities, taxes and agreements, or direct the Minister to do so;

(c) decide other matters when they are not or cannot be dealt with in accordance with this Part;

(d) deal with all or any of the matters referred to in sections 42 or 44.

67 Assets and liabilities of dissolved municipalities

(1) If the liabilities of a dissolved municipality are more than its assets the Minister may authorize the successor of the dissolved municipality to impose a tax on the land previously in the former municipality to pay for the liabilities.

(2) A tax imposed under subsection (1) is, for the purposes of Part 7 (Finance), a special tax.

Division 2

Effect of dissolution and annexation orders

68 Effect of transfer of administration or annexation of land[22]

(1) When an order under this Part annexes land or transfers the administration of land from one municipality (the "old municipality") to another (the "new municipality"), unless the order otherwise directs,

(a) the new municipality, with respect to the land affected by the order, becomes the successor of the old municipality in all

22 The effect of transfer of administration or annexation orders on supply contracts, franchises and exclusive use agreements is dealt with starting at section 185.

respects;

(b) taxes due with respect to the land affected by the order and remedies for their collection pass to the new municipality, and on collection must be paid to the old municipality, unless the entire old municipality is dissolved in which case the taxes collected are to be retained by the new municipality;

(c) land affected by the order that is designated or required to be provided as a public utility parcel, environmental reserve, municipal reserve or municipal and school reserve under the Planning Act becomes vested in the new municipality;

(d) despite the Labour Relations Code, each employee of the old municipality whose duties were substantially related to the land affected by the order becomes an employee of the new municipality with the rights and duties provided by the new municipality;

(e) on the effective date of the order, the old municipality ceases to have any authority with respect to the land affected by the order;

(f) bylaws and resolutions of the old municipality that apply specifically to the land affected by the order continue to apply to it until they are repealed or others are made in their place by the new municipality.

(2) If the entire old municipality forms the entire new municipality

(a) the councillors of the old municipality continue as the councillors of the new municipality until their successors are sworn into office, and

(b) bylaws and resolutions of the old municipality continue as bylaws and resolutions of the new municipality until they are repealed or others are made in their place by the new municipality.

(3) Nothing in this section prejudices the rights of debenture holders.

(4) An order under this Part may also

(a) authorize the council of the new municipality to levy a special tax on the land transferred or annexed to meet debentures issued by the old municipality in respect of that land;

(b) deal with and make any provision necessary to protect the rights of any person in the land transferred or annexed.

(5) This section does not apply to agreements, franchises and rights described in sections 185 to 192.[23]

69 Transfer land and property ownership

When an order under this Part requires the ownership of land or property to be transferred to a municipality the Minister may do whatever is necessary to effect the transfer.

70 Regulations Act not to apply

The *Regulations Act* does not apply to an order of the Lieutenant Governor in Council or the Minister made under this Part.

71 Orders published

(1) An order of the Lieutenant Governor in Council and the Minister under this Part must be published in the Alberta Gazette.

(2) Publication of an order of

(a) the Lieutenant Governor in Council, or

23 These sections deal with exclusive franchises and rights and supply agreements for public utilities.

(b) the Minister,

made under this Part is conclusive proof of the fulfillment of the conditions precedent to the Ministerial recommendation and conditions precedent to the Lieutenant Governor in Council's order.

PART 5

HOW DO COUNCILS WORK?

SUB PART 1

ESTABLISHMENT OF COUNCILS, COUNCILLORS, TERMS OF OFFICE AND WARDS

72 Purpose of this Sub Part

The purpose of this Sub Part is to create councils

(a) to do those things necessary to govern the community for which they are elected in a responsible way, and

(b) to provide necessary services and facilities to people and property,

balancing the interests of the community as a whole and the interests of individuals in the community.

73 Summary of the composition of councils

The following table summarizes the composition of councils and the options available to municipalities.

	City/town	Village	Summer Village	Municipal district	Special municipality
Number of councillors	7 (unless greater 'odd' number prescribed by bylaw)	3 (unless '5' is prescribed by bylaw)	3 (unless '5' is prescribed by bylaw)	Whatever municipal incorporation order says (unless bylaw increases or decreases it to an 'odd' number)	Depends on incorporation order
chief elected official	Elected by vote of entire municipality for 3 year term unless bylaw passed saying: . council elects ceo from amongst themselves . when the election takes place, and . how long the ceo holds office	Elected annually by council from among themselves unless bylaw passed saying: . election by entire municipality . the ceo is elected for 3 year terms by electors	Elected annually by council from among themselves unless bylaw passed saying: . election by entire municipality . the ceo is elected for 3 year terms by electors	Elected annually by council from among themselves unless bylaw passed saying: . election by entire municipality . the ceo is elected for 3 year terms by electors	Depends on incorporation order
other councillors	Elected by vote of electors of entire municipality unless there is a ward system in place	Same as city/town	Same as city/town	Same as city/town	Same as city/town

Division 1

Establishment of councils and duties of councillors

74 Establishment of councils

(1) Councils are established by this section as the governing body for each city, town, new town, village, summer village, municipal district and special municipality.

(2) A council is a continuing body.

75 Composition of council

(1) Each council is composed of

(a) a chief elected official, and

(b) other councillors.

(2) The chief elected official is a councillor, irrespective of the way in which the chief elected official assumes office.[24]

76 Responsibilities of councillors

It is the responsibility of councillors

(a) to consider the welfare of the municipality as a whole;

(b) to develop and evaluate the policies and programs of the municipality;

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24 The chief elected official can be elected at large, by a vote of all electors of the municipality, or he or she can be elected by the councillors from amongst themselves. Either way the chief elected official is also a councillor.

(c) to participate in council meetings and council committee meetings and meetings of other bodies to which they are appointed by the council;

(d) to bring to council's attention anything that would promote the welfare or interests of the municipality;

(e) to bring to the attention of the chief elected official a concern about the way in which the administrative staff of the municipality carry out their responsibilities;

(f) to obtain information about the operation or administration of the municipality from the chief administrative officer or a person designated by the chief administrative officer;

(g) to keep in confidence matters discussed in private council or private council committee meetings, until the matter is discussed at a public meeting;

(h) to perform any other duty or responsibility given or imposed on them by this or other enactments or by bylaw.

77 Title of councillors and chief elected official

A council may direct that

(a) its councillors are to be known by a title other than "councillor";

(b) its chief elected official is to be known as "mayor", "reeve" or other designated title.

Division 2

Composition of councils

78 Councillors on municipal district councils

(1) Municipal district councils consist of the number of councillors stated in the incorporation order of the municipal district, unless council passes a bylaw under subsection (2).

(2) A municipal district council may pass a bylaw specifying a greater or lesser number of councillors to constitute its council than the number specified in the incorporation order, but in order to facilitate decision making the number must be an odd number.

79 Councillors on village and summer village councils

Village councils and summer village councils consist of

(a) 3 councillors, or

(b) 5 councillors if the council passes a bylaw to that effect.

80 Councillors of cities and towns

(1) City councils and town councils consist of 7 councillors unless council passes a bylaw under subsection (2).

(2) A city council or town council may pass a bylaw specifying a greater number of councillors to constitute its council, but in order to facilitate decision making the number must be an odd number.

81 Election of councillors

(1) A chief elected official must be elected in accordance with the *Local*

Authorities Election Act and Division 4.

(2) Other councillors must be elected in accordance with the *Local Authorities Election Act* by the vote of the electors of the entire municipality unless there is a ward system in place in the municipality.

82 Bylaws changing the number of councillors on council

A bylaw changing the number of councillors on council

(a) must be passed at least 180 days before the general election at which it is to take effect, but

(b) if the bylaw is not passed in time, takes effect at the 2nd general election after the date on which it is passed and subsequent general elections until it is amended or repealed.

83 Insufficient numbers of councillors

(1) If councillors are not nominated or elected for all positions on council, the Minister may

(a) appoint an official administrator, or

(b) order that the councillors who have been elected constitute a quorum,

until the vacancies are filled by an election.

(2) The Minister may, as the circumstances require, direct that a by-election be held to fill vacancies on council.

(3) An official administrator appointed under subsection (1)

(a) has all the functions, duties and powers of a council, and

(b) holds office until a quorum of councillors are sworn into office.

Division 3

A ward system of elections

84 Ward system

(1) A council may pass a bylaw to

(a) divide the municipality into wards, and

(b) establish or alter the boundaries of wards.

(2) The number of councillors to be elected by the electors of each ward must be determined in such a way that councillors are drawn from substantially the equivalent population base.

(3) For example, if a municipality has a population of 10,000 people

(a) 5 wards could be established with each ward composed of about 2000 people, or

(b) 3 wards could be established as follows

Ward 1	Ward 2	Ward 3
3 councillors elected	1 councillor elected	1 councillor elected
6000 population	2000 population	2000 population

(4) A bylaw establishing a ward system must

(a) give each ward a name or number, or both, and

(b) state the number of councillors to be elected by the electors of each ward.

(5) A bylaw under this section

(a) must be made, amended or repealed at least 180 days before the date of the general election at which it is to take effect, but

(b) if the bylaw is not passed in time, takes effect at the 2nd general election after the date on which it is passed and subsequent general elections, until it is amended or repealed.

Division 4

Chief elected officials and their deputies

85 Duties of chief elected official

(1) A chief elected official has the following responsibilities

(a) to preside at meetings of council whenever the chief elected official attends a council meeting, unless a bylaw otherwise provides,[25]

(b) to bring to the attention of a private council meeting or a private council committee meeting concern about the way in which the chief administrative officer carries out the responsibilities of that office, and

(c) to bring to the attention of the chief administrative officer a concern about the way in which administrative staff of the municipality carry out their responsibilities.

(2) As a councillor, the chief elected official must also fulfil the

25 Bylaws could provide that a non-councillor be appointed as non-voting 'speaker' to run council meetings. This would free the chief elected official to participate in debate without being constrained by having to chair the meeting.

responsibilities of a councillor.

(3) The chief elected official is a member of all council committees and all bodies to which the council has the right to appoint members under this Act, and has a right to vote at meetings of those entities.

86 Election of chief elected official of cities and towns

(1) Chief elected officials of cities and towns must be elected by a vote of the electors of the entire municipality unless the council passes a bylaw authorizing the council to elect the chief elected official from among themselves.

(2) If a bylaw is passed to elect a chief elected official from among councillors it must also state

(a) when the election for chief elected official must take place, and

(b) how long the successful councillor holds office as chief elected official, which cannot be longer than the councillor's term of office.

87 Election of chief elected official of villages, summer villages and municipal districts

(1) Chief elected officials of municipalities other than cities and towns must be elected annually at the annual organizational meeting by the council from among themselves unless subsection (2) applies.

(2) A village, summer village or municipal district council may pass a bylaw saying that the chief elected official is to be elected by a vote of the electors of the entire municipality, in which case the chief elected official is elected for a 3 year term of office.

88 Changing the way in which the chief elected official is chosen

(1) A bylaw which changes the way in which a chief elected official is elected

(a) must be passed at least 180 days before the general election at which it is to take effect, but

(b) if the bylaw is not passed in time, takes effect at the 2nd general election after the date on which it is passed and subsequent general elections, until it is amended or repealed.

(2) A bylaw under subsection (1), and an amendment to or repeal of the bylaw, must be advertised.

89 Deputy chief elected official

(1) At its annual organizational meeting a council must elect from among themselves a deputy chief elected official so that

(a) only one councillor holds office as deputy chief elected official at any time, and

(b) at all times the office of deputy chief elected official is filled.

(2) The council may appoint an acting chief elected official from among themselves to perform the duties of the office of chief elected official

(a) when both the chief elected official and the deputy chief elected official are unable to perform the duties of the office, or

(b) if both acting and deputy offices are vacant.

90 Oath of office

(1) The following officials, namely

(a) chief elected official,

(b) deputy chief elected official,

(c) acting chief elected official, and

(d) councillor,

must take and sign the official oath or affirmation prescribed by the Oaths of Office Act,[26] but the oaths or affirmations for the various offices may be combined.

(2) The signed oath or affirmation must be retained by a designated officer with the official records of the municipality.

Division 5

Terms of office

91 3 year terms

A councillor elected at a general election holds office for 3 years

(a) starting at the beginning of the organizational meeting following the general election, and

(b) ending immediately before the beginning of the organizational meeting following the next general election, unless the office becomes vacant earlier.

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26 The official oath/affirmation specified in the Oaths of Office Act reads:

I . . . (swear) (solemnly and truly declare and affirm) that I will diligently, faithfully and to the best of my ability execute according to law the office of . . .

(So help me God)

92 Terms of office after a by-election

A councillor elected at a by-election holds office for a period

(a) starting at the first regular meeting of the council after the by-election, and

(b) ending immediately before the beginning of the organizational meeting following the next general election, unless the office becomes vacant earlier.

93 Terms of office in newly formed municipalities

(1) If the first election in a newly established municipality is held at a time other than at the date specified for a general election, the councillors hold office

(a) starting at the beginning of the organizational meeting following the first election, and

(b) ending immediately before the beginning of the organizational meeting after the next general election, unless the office becomes vacant earlier or the Minister extends the term under subsection (2).

(2) If the first election is less than 18 months before the date of the next general election, the Minister may order that the councillors continue to hold office until immediately before the beginning of the organizational meeting following the second general election after establishment of the newly formed municipality, unless the office becomes vacant earlier.

94 Resignations

(1) A councillor may resign by giving written notice to the chief administrative officer.

(2) A chief elected official elected by councillors from among themselves who resigns remains on council as a councillor, unless that office is resigned as well.

(3) A resignation under this section is effective

(a) on the date specified in the resignation notice, or

(b) if no date is specified, on the date the notice is received by the chief administrative officer.

(4) The chief administrative officer must report a resignation at the first meeting of council after receipt of the resignation.

Division 6

Vacancies

95 Councillor vacancies

A council must hold a by-election to fill vacancies on council unless

(a) the vacancy occurs during the 6 months before a general election, or

(b) a council consists of 6 or more councillors and the vacancy occurs

(i) in the 18 months before the next general election and there is only one vacancy on the council, or

(ii) in the 12 months before the next general election, and the number of councillors remaining is at least one more than the quorum of the whole council.

96 Chief elected official vacancy

(1) If the chief elected official is elected by councillors from among themselves and the office becomes vacant, the remaining councillors must elect one of their number as chief elected official for the remainder of the term of office at the next regular council meeting.

(2) If the chief elected official is elected by a vote of the electors of the entire municipality and the office becomes vacant, the council must

(a) fill the vacancy by holding a by-election, if there are 18 months or more before the next general election, or

(b) if there are less than 18 months before the next general election, elect one or more of their number as chief elected official so that

(i) only one councillor holds office as chief elected official at any time, and

(ii) the office of chief elected official is filled at all times for the remainder of the term of office.

SUB PART 2

COUNCIL PROCEEDINGS

97 Purpose of this Sub Part

The purpose of this Sub Part is to establish a framework for responsible decision making by councils.

Division 1

Council decisions and quorum

98 How does council make decisions?

(1) Council must make all its decisions under this or other enactments by resolution or bylaw.

(2) Instead of passing a resolution on a matter council may pass a bylaw on the matter.

(3) A council cannot make a decision by resolution when this or another enactment requires the decision to be made by bylaw.

(4) A bylaw or resolution is not valid unless it is passed at a regular or special council meeting held in public at which there is a quorum of councillors present.

99 Quorum

A majority of the whole council is a quorum of the council, unless a different quorum is established under this[27] or another enactment.

100 Vacancies preventing a quorum of council

(1) If vacancies reduce the number of councillors to less than a quorum the Minister may

(a) appoint an official administrator, or

(b) order that the remaining councillors constitute a quorum

27 For example, different quorums are established by the Minister under sections 98 and 99.

until the vacancies are filled by an election.

(2) The Minister may, as circumstances require,

(a) direct that a by-election be held to fill the vacancies on council, or

(b) direct the official administrator to conduct a by-election.

101 Illness and disability preventing a quorum of council

(1) If illness or disability reduces the number of councillors on a council to less than a quorum the Minister may order that the remaining councillors constitute a quorum.

(2) The Minister's order remains in effect until a majority of the councillors are able to resume their duties.

102 Pecuniary interest preventing a quorum of council

(1) If councillors must abstain from voting because of their pecuniary interest in a matter and the remaining councillors available to vote constitute less than a quorum, the Minister may

(a) order that the remaining councillors constitute a quorum for purposes of voting on that matter,

(b) despite the requirement to abstain from voting, order that all of the councillors may vote on the matter, or

(c) direct the chief administrative officer to hold a plebiscite on the matter, in which case the Minister may make any directions respecting the date of the plebiscite, the question to be voted on and procedural issues that are needed.

(2) If a plebiscite is held in accordance with the Minister's direction, the council must comply with the result of the plebiscite.

(3) If a councillor, despite having a pecuniary interest in a matter,

(a) votes on the matter in accordance with the Minister's order under subsection (1)(b), or

(b) votes on the matter for the purpose of complying with the results of a plebiscite held in accordance with this section,

the councillor is not disqualified as a result of having voted.

Division 2

Voting

103 Councillors have one vote

A councillor has one vote each time a vote is held at a council meeting.

104 Eligibility to vote after a public hearing

When a public hearing on a proposed bylaw or resolution is held, a councillor, at a subsequent meeting of council to decide the matter,

(a) may vote on a proposed bylaw or resolution even though the councillor was temporarily absent from part of a public hearing,

(b) must not vote on a proposed bylaw or resolution if the councillor was absent from all of the public hearing, and

(c) may abstain from voting if the councillor was absent from all of the public hearing.

105 Obligation to vote

Every councillor attending a council meeting must vote on matters put to a vote unless

(a) the councillor must abstain because of pecuniary interest,

(b) the councillor must abstain because of absence from all of a public hearing held to consider a matter before a vote is held, or

(c) the councillor exercises a right to abstain because of absence from part of a public hearing held to consider the matter before a vote is held.

106 Recorded votes

(1) Before a vote is taken by council on any matter a councillor may request that the vote be recorded.

(2) If a vote is recorded the minutes must show

(a) the names of the councillors present, and

(b) whether each councillor voted for or against the matter, or abstained.

107 Tied vote

If there is an equal number of votes for and against a matter it is to be considered as a negative vote.

108 Councillors prohibited from certain votes

(1) A councillor must not vote

(a) to spend money for an operating purpose any money borrowed by the municipality by the issue of a debenture for a capital purpose,

(b) in favour of any action which, if taken, would contravene a direction of the Minister under this Act or the *Department of Municipal Affairs Act*, or

(c) to spend money borrowed by the issue of a debenture for a capital purpose for another purpose that is not authorized by the Local Authorities Board.

(2) Councillors who vote in a manner that is contrary to subsection (1) are jointly and severally liable for the money spent in accordance with the vote and the municipality may recover the money spent by civil action for debt.

(3) If the municipality does not bring an action under this section within 30 days of a request by an elector, taxpayer or debenture holder to do so, the action may be brought either by a taxpayer, elector or debenture holder alone or on their own behalf and on behalf of others.

Division 3

Public presence at council and council committee meetings

109 Council and committee meetings in public

(1) Councils and council committees must hold their meetings in public unless subsection (2) or (3) applies.

(2) A council or council committee may hold part of a meeting in private if a majority of the councillors present and voting at the meeting think that it is in the public interest to hold the meeting in private.

(3) A council committee may regularly hold private meetings if it is authorized to do so by bylaw.

(4) When a meeting is in private session no resolution or bylaw can be passed at the meeting, except a resolution to revert to a public meeting.

110 Public right to be present

Everyone has a right to be present at council meetings and council committee meetings unless

(a) a person is expelled and excluded from the meeting, by the person chairing the meeting, for improper conduct,

(b) council or council committee is in or goes into private session, or

(c) council is required to go into private session by this or another enactment.

111 Statements and written submissions

(1) A council or council committee may require a person appearing before it or making any claim or submission to it, to do so under oath.

(2) A written submission addressed to

(a) the chief elected official and the council,

(b) the council,

(c) the person chairing a council committee and the members of it, or

(d) a council committee,

must be read at a meeting of the council or council committee or a copy must be given to the councillors to whom it is addressed unless, in the opinion of the chief administrative officer, it is not in the public interest to distribute the submission.

Division 4

Organizational, regular and special council meetings

112 Organizational meetings

A council must hold an organizational meeting annually, no later than 2 weeks after the 3rd Monday in October.

113 Regular meetings

(1) At a council meeting at which all the councillors are present the council may decide to hold regular meetings of the council at stated dates, times and places in which case no notice of them is required to be given to councillors.

(2) If council changes the date, time or place of a regular meeting

(a) notice of the change must be given to any councillors not present at the meeting at which the change was made, and

(b) public notice of the change must be given.

114 Special meetings

(1) The chief elected official may call a special council meeting whenever the official considers it appropriate to do so.

(2) A majority of councillors may make a written request to the chief

elected official requesting that a spécial council meeting be called and stating its purpose.

(3) After receiving a request for a special meeting under subsection (2) the chief elected official must call a council meeting, stating its purpose and the time, date and place at which it is to be held within

(a) 14 days of receiving the request, or

(b) any shorter period that is prescribed in a bylaw.

(4) Written notice of a special meeting is deemed to have been given to a councillor if it is delivered at least 24 hours before the meeting

(a) to the councillor, or

(b) to an adult person at the councillor's home or place of work.

(5) A special meeting can be held with less than 24 hours notice if, at the beginning of the special meeting, at least 2/3 of the whole council agree to the meeting being held.

(6) No business other than that stated in the notice calling the special meeting can be transacted at a special meeting unless, at the meeting, all of the councillors in office are present, in which case, by a vote of at least 2/3 of the councillors, the councillors agree to deal with other business.

115 Electronic communication system meetings

(1) In addition to ordinary public meetings, council or council committee meetings can be held by means of telephone, audio visual communication, electronic mail or other communication facilities if

(a) the public is informed of the meeting and the way in which it is to be conducted in advance of the meeting, and where they can watch or listen to it;

(b) the system allows the public to watch or listen to the meeting at a place specified in the announcement of the meeting, and at least one designated officer is in attendance at that place, and

(c) the system allows all the councillors at the meeting to participate in it and to hear or watch, as the case requires, the discussion by all of the other participants at the meeting, and to vote.

(2) A councillor participating in a meeting described in subsection (1) is considered to be present at the meeting.

SUB PART 3

WHAT HAPPENS IF A COUNCILLOR OR A MEMBER OF A COUNCILLOR'S FAMILY HAS A CONFLICT OF INTEREST?

116 Purpose of the Sub Part

The purpose of this Sub Part is to ensure the integrity of councillors and guide them in their conduct if they or certain family members have a pecuniary interest in a matter before council.

Division 1

Pecuniary interest of councillors

117 Definitions

(1) In this Division

(a) "***corporation***", "***director***", "***distributing corporation***", "***officer***" "***shareholder***", "***voting rights***" and "***voting shares***", have the same meaning as they have in the *Business Corporations Act*;

(b) "***pecuniary interest***" means, with respect to a councillor, an interest in a matter that could monetarily affect

(i) the councillor,

(ii) a corporation, other than a distributing corporation, in which the councillor is a shareholder, director or officer,

(iii) a distributing corporation in which the councillor beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the councillor is a director or officer,

(iv) a partnership or firm of which the councillor is a member, or

(v) a corporation, partnership, firm, government or person that employs the councillor.

(2) For the purposes of this Division, the pecuniary interest of

(a) the spouse, children or parents of a councillor, or

(b) parents of the councillor's spouse,

that are known to the councillor or of which the councillor reasonably should know, is deemed to be the pecuniary interest of the councillor.

(3) For the purposes of this Division a councillor does not have a pecuniary interest by reason only of any interest that the councillor may have

(a) as an elector, taxpayer or utility customer of the municipality, or

(b) by reason of the councillor's appointment by the council as a

director of a company incorporated for the purpose of carrying on business for and on behalf of the municipality or by reason of the councillor's being appointed as the representative of the council on another body,

(c) with respect to any allowance, honorarium, remuneration or benefit to which the councillor may be entitled by reason of being a councillor or by reason of having been appointed by the council to a position described in clause (b),

(d) by reason of the councillor's employment by the Government of Canada, the Government of Alberta or a federal or provincial Crown corporation or agency, except with respect to a matter directly affecting the department, corporation or agency of which the councillor is an employee,

(e) by reason of the councillor being a member of a credit union, a cooperative association or a non-profit organization formed under an Act of the Legislature or of the Parliament of Canada, or a service club,

(f) by reason of the councillor's appointment as the volunteer chief or other volunteer officer of a volunteer fire department, volunteer ambulance service, volunteer emergency measures organization or other volunteer organization or service or by reason of remuneration received as a volunteer member of any of those voluntary organizations or services,

(g) by reason of having an interest that is an interest in common with the majority of electors of the municipality or, if the matter affects only part of the municipality, with the majority of electors in that part,

(h) by reason of an interest that is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member, or

(i) by reason of discussing or voting on a bylaw respecting businesses or business activities when the councillor has an

interest in a business that is affected by the bylaw.

(4) Subsection (3)(e) and (f) do not apply to a councillor who is

(a) an employee of a credit union or cooperative association, or

(b) an employee of an organization or club referred to in those clauses.

(5) The exemptions under subsection (3) in respect of a councillor also apply with respect to the persons named in subsection (2).

118 Disclosing names of relatives

A council may pass a bylaw

(a) requiring that each councillor file with a designated officer a statement of the names of the councillor's

(i) spouse, children and parents, and mother and father-in-law, and

(ii) any corporation, partnership, firm, government or person referred to in section 117(1)(b),

and

(b) requiring the designated officer to compile a list of all the names reported on the statements filed with the officer and give a copy of the list to the employees of the municipality indicated in the bylaw.

119 Disclosure of pecuniary interest

(1) When a councillor has a pecuniary interest in a matter before the council, a committee of the council or any other body to which the councillor is appointed as a representative of the council, the

councillor must, if present

(a) disclose the general nature of the pecuniary interest prior to any discussion of the matter,

(b) abstain from voting on any question relating to the matter,

(c) subject to subsection (3), abstain from any discussion of the matter, and

(d) subject to subsections (2) and (3), leave the room in which the meeting is being held until the discussion and voting on the matter are concluded.

(2) If the matter with respect to which the councillor has a pecuniary interest is the payment of an account for which funds have previously been committed, it is not necessary for the councillor to leave the room.

(3) If the matter with respect to which the councillor has a pecuniary interest is a question on which, under this or other Acts, the councillor as an elector or owner has a right to be heard by the council

(a) it is not necessary for the councillor to leave the room, and

(b) the councillor may exercise the right to be heard in the same manner as a person who is not a councillor.

(4) If a councillor is temporarily absent from a meeting when a matter in which the councillor has a pecuniary interest is introduced, the councillor must immediately on return to the meeting, or as soon as the councillor becomes aware that the matter has been considered, disclose the general nature of the councillor's interest in the matter.

(5) The abstention of a councillor under subsection (1) and the disclosure of a councillor's interest under subsection (4) must be recorded in the minutes of the meeting.

(6) A councillor who contravenes this section is disqualified from council.

120 Effect of pecuniary interest on agreements

(1) No agreement with a municipality under which a councillor of the municipality has a pecuniary interest is binding on the municipality unless

(a) the agreement is for work in an emergency or relating to extraordinary circumstances,

(b) the agreement is for the sale of goods or services to the municipality or to persons contracting with the municipality at competitive prices by a dealer in those goods or services incidental to or in the ordinary course of the business, or

(c) the agreement is approved by council.

(2) For purposes of this section, a councillor does not have a pecuniary interest just because the councillor provides professional services incidental to and in the normal course of the councillor's professional practice to a person contracting with the municipality.

(3) A councillor who has a pecuniary interest in an agreement with the municipality, other than an agreement referred to in subsection (1), is disqualified from council.

(4) A councillor is disqualified from council if the councillor uses information gained through being on the council to gain a pecuniary benefit in respect of any matter.

121 Certain agreements prohibited

(1) Neither

(a) a councillor or employee of the municipality, alone or jointly,

nor

(b) the municipality,

may make an agreement by which the municipality supplies a service or commodity except for services or commodities that the municipality has statutory authority to supply.

(2) An agreement described in subsection (1) is void.

Division 2

Disqualification of councillors

122 Reasons for disqualification

(1) A councillor is disqualified from council if

(a) the councillor ceases to be eligible for nomination as a candidate under the *Local Authorities Election Act*;[28]

(b) the councillor becomes a judge of a court or a member of the Senate or House of Commons of Canada or of the Legislative Assembly of Alberta;

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28 A person is eligible for nomination as a candidate under the Local Authorities Election Act if he or she

(a) is eligible to vote in that election,

(b) has been a resident of the local jurisdiction and the ward, if any, for the 6 consecutive months immediately preceding nomination day, and

(c) is not otherwise ineligible or disqualified.

(2) Notwithstanding subsection (1), in the case of a city, a candidate for councillor is not required to be a resident of the ward in either a general election or a by-election, but must be a resident of the city.

(s21(1) and (2))

Section 22 of the Local Authorities Act specifies what makes a person "otherwise ineligible or disqualified".

(c) the councillor is absent from regular council meetings held during any period of 8 consecutive weeks, starting with the date that the first meeting is missed, unless subsection (2) applies;

(d) the councillor is convicted

(i) of an indictable offence punishable by imprisonment for 5 or more years, or

(ii) an offence under section 123, 124 or 125 of the Criminal Code (Canada);

(e) the councillor does not vote on a matter at a council meeting at which the councillor is present, unless the councillor is required or is permitted to abstain from voting under section 102;[29]

(f) the councillor discloses information the councillor is required to keep in confidence under section 76(g).

(2) A councillor is not disqualified by being absent from regular council meetings under subsection (1)(c) if the absence is authorized by a resolution of council passed

(a) at any time before the end of the last regular meeting of the council in the 8 week period, or

(b) if there is no other regular meeting of the council during the 8 week period, at any time before the end of the next regular meeting of the council.

(3) For the purposes of this section, a councillor is not considered to be absent from a council meeting if

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29 The general rule is that councillors are required to vote at meetings. They may only abstain if they have a pecuniary interest (although the Minister can waive the necessity for the abstention in order to establish a quorum), or if absent from all of a public hearing leading to a council decision.

(a) the councillor is elected to a municipal association and is absent on its business, or

(b) the councillor is absent on council business at the direction of council.

(4) Notwithstanding section 24 of the *Local Authorities Election Act*,[30] a councillor who is disqualified under this section is eligible to be elected at the next ensuing general election in the municipality if qualified for nomination under the *Local Authorities Election Act*.

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30 Section 24 of the Local Authorities Election Act reads:

24(1) A person who held office on an elected authority and

(a) who resigned his office to avoid making restitution for money he received that disqualified him from holding that office pursuant to this or any other Act and has been ordered by a judge to make restitution, or

(b) who was declared by a judge to be disqualified to hold that office pursuant to this or any other Act,

is not eligible to become a member of that elected authority until after 2 general elections have occurred after the date on which he was ordered to make restitution or was declared to be disqualified.

(2) Notwithstanding that a by-election or general election has been held between the time when the disqualification of the member or former member arose and the time when the order or declaration has been made by the judge subsection (1) applies and, if the person was re-elected, he is not eligible to remain a member of the elected authority.

(3) Notwithstanding subsections (1) and (2), a judge

(a) who has made an order described in subsection (1)(a), or

(b) who has declared a person to be disqualified

may reduce the period of disqualification.

(4) An appeal against the decision of a judge under this section lies to the Court of Appeal.

It may be better to amend s24 of the LAEA to incorporate subsection (4) of this draft into it.

Division 3

Court applications to deal with disputes about disqualification

123 Resignation on disqualification

(1) A councillor must resign immediately after being disqualified from council.

(2) If a councillor does not resign immediately

(a) the council may apply by originating notice to a judge of the Court of Queen's Bench for

(i) an order determining whether or not the person is able to remain a councillor, or

(ii) an order declaring the person to be disqualified from council,

or

(b) an elector who

(i) files an affidavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as a councillor, and

(ii) pays into court the sum of $250 as security for costs,

may apply by originating notice to a judge of the Court of Queen's Bench for an order declaring the person to be disqualified from council.

(3) An application under this section can only be made within 3 years of the date the contravention is alleged to have occurred.

(4) An application under this section can be started or continued whether or not an election has been held between the time the disqualification is alleged to have occurred and the time the application is or was commenced and whether or not the person in respect of whom the application is being brought

(a) resigns before or after the election,

(b) was re-elected in the election,

(c) was not re-elected or did not run in the election, or

(d) has completed a term of office.

124 Decision on disqualification application

(1) After hearing an application under this Division and any evidence, either oral or by affidavit, that is required, the judge may

(a) declare the person to be disqualified and a position on council to be vacant,

(b) declare the person able to remain a councillor, or

(c) dismiss the application with or without costs.

(2) If a judge declares a person disqualified because information obtained through being a councillor was used to gain a pecuniary benefit, the judge may order the person to pay to the municipality a sum of damages determined by the court.

125 Inadvertence or genuine error

A judge who hears an application under this Division and finds that the person is disqualified under sections 119 or 120 may still dismiss the application if the judge is of the opinion that the disqualification arose inadvertently or by reason of a genuine error in judgment.

126 Appeal

(1) The decision of a judge under this Division may be appealed to the Court of Appeal.

(2) A person who is declared disqualified under this Division and appeals that declaration remains disqualified until the appeal is finally determined.

(3) If, on the final determination of the appeal, the disqualification is set aside

(a) the Court must reinstate the person as a councillor for any unexpired portion of the term of office for which the person was elected and require any person who has been elected to fill the balance of that term to vacate the office, and

(b) the Court may order that any money paid to the municipality under section 124(2) be repaid.

(4) If on the final disposition of the appeal the disqualification is set aside but the term of office for which the person was elected has expired, the person must not be reinstated but is eligible to be elected at the next ensuing election in the municipality if otherwise qualified.

127 Reimbursement of costs and expenses

If an application under this Division

(a) is dismissed, or

(b) an order is issued declaring the person able to remain a councillor,

the council may reimburse the person in respect of whom the application was made any costs and expenses that the council

considers reasonable, other than costs that have already been awarded to the person by the judge.

PART 6

WHAT KIND OF THINGS CAN A MUNICIPALITY DO?

SUB PART 1

SPHERES OF JURISDICTION

128 Purpose of this Sub Part

The purpose of this Sub Part is to give councils law making powers and describe their general jurisdiction, in addition to the rights, powers and privileges they have as a result of their incorporation.

Division 1

Jurisdiction of municipalities

129 General jurisdiction

Municipalities have jurisdiction to

(a) provide necessary or desirable services and facilities for people and property,

(b) develop safe, viable and pleasing communities, and

(c) do other things that are necessary, in the opinion of the council, for the general benefit of the municipality.

Division 2

Bylaw making authority

130 Bylaw spheres of jurisdiction[31]

(1) In each municipality the council may pass bylaws in relation to matters coming within the following spheres of jurisdiction:

(a) the protection of persons and property and the regulation of nuisances;

(b) the regulation of

(i) activities and other things in public places, and

(ii) activities at and matters related to gatherings of the public for any public or private purpose, other than in private dwelling houses;

(c) the regulation of transport and transportation systems;

(d) the regulation of business, business activities and persons engaged in business;

(e) the provision and regulation of municipal services, public utilities or other activities that are necessary or desirable for persons or property;

(f) the regulation of wild and domestic animals and activities in relation to them;

(g) the regulation of any activity or thing that endangers or affects the safety, health or convenience of others;

31 Schedule 2 has examples of the bylaws that can be made under each of the spheres of bylaw making power.

(h) providing for and regulating the raising of revenue or the recovery of expenditures by imposing fees, costs, rates, levies or charges for services, activities of or things done by the municipality;

(i) enforcement of bylaws, inspections for and remedy of contraventions of bylaws, including either or both of the following:

(i) the creation of offences and, on summary conviction, the imposition of penalties not exceeding $10,000 for each offence;

(ii) on summary conviction, the imprisonment of persons for not more than one year for contravention of a bylaw or non payment of a fine, or both;

(j) the procedure and conduct of council and councillors and their functions, powers and duties, and the establishment, operation and functions of council committees and other bodies;

(k) the organization, administration and management of the municipality, the delegation of functions, duties and powers, and providing for subdelegation, and generally for the good government of the municipality.

(2) The power to make bylaws elsewhere in this or in other enactments does not limit the bylaw making powers described in this section.[32]

131 Jurisdiction confined within municipal boundaries

Bylaws of a municipality are confined to the area inside its boundaries unless

(a) 2 or more municipalities agree that a bylaw has effect in their

32 There are approximately 40 other Acts which give municipalities bylaw making powers.

respective municipalities, or

(b) this or other enactments say that the bylaw applies outside the boundaries of the municipality.[33]

132 Effect and extent of bylaw making authority

Within its bylaw making authority a council may make bylaws with the same effect and to the same extent that the Legislature can make law.

133 Conflicts and inconsistencies with Provincial law

If there is a conflict or inconsistency between an enactment and a bylaw, the bylaw is of no effect to the extent of the inconsistency.

134 Guides to interpreting bylaw making powers

(1) Bylaw making powers are stated in general terms to

(a) give broad authority to councils and respect their right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to them under this and other enactments,

(b) enhance the ability of councils to respond to present and future issues in their communities by passing bylaws to govern matters of interest or concern to them, and

(c) carry out the purposes of this Act as the council sees most fitting for the community for which it is elected.

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33 An example of this is when land is moved from the jurisdiction of one municipality to another. The "old" bylaws made by the municipal council formerly having jurisdiction over the land continue to apply until new ones are made.

(2) The bylaw making powers of councils are to be interpreted so as to give effect to the purposes of this Act.

(3) In Schedule 3, the examples of bylaws that could be made by a council

(a) are illustrative and indicative only, not exhaustive, and

(b) do not and are not intended to limit the bylaw making powers of council.

Division 3

Challenging bylaws

135 Appeal to the Court of Appeal

(1) An appeal on a bylaw on a question of law or a question of jurisdiction lies to the Court of Appeal after leave to appeal has been obtained.

(2) Application for leave to appeal to the Court of Appeal must be made to a judge of the Court of Appeal within 60 days after the bylaw receives 3rd reading or within any further time that the judge, in special circumstances, permits.

(3) Notice of the application for leave to appeal must be given to the municipality and to any other person the judge directs.

136 Decision about the leave application

The judge may

(a) grant leave to appeal,

(b) direct which persons or other bodies must be named as

respondents to the appeal,

(c) specify the questions of law or the questions of jurisdiction to be appealed, and

(d) make an order about the costs of the application.

137 Municipality to be named as respondent

(1) The municipality that passed the bylaw must be named

(a) as a respondent to an application for leave to appeal, and

(b) as a respondent to the appeal if leave to appeal is granted.

(2) The municipality is entitled to be represented by counsel at an application for leave to appeal and at the appeal itself.

138 Validity of bylaws

A bylaw is not to be declared wholly or partly invalid because it is or is thought to be unreasonable.

139 Effect of councillor being disqualified

(1) A bylaw, resolution or proceeding of a council is not defective just because a person sitting or voting as a councillor

(a) is not qualified to be on council,

(b) was not qualified when the person was elected, or

(c) after the election, ceased to be qualified or became disqualified.

(2) A bylaw, resolution or proceeding of council is not invalid because

(a) the election of a whole council is invalid,

(b) the election of a councillor is invalid,

(c) a councillor has resigned because of disqualification,

(d) a person has been declared disqualified from being a councillor, or

(e) a councillor or an official on council does not take the oath of office.

Division 4

Special purpose bylaws

140 Business revitalization zone

A council may pass bylaws establishing a business revitalization zone and related matters in accordance with Schedule 4.

Division 5

How are bylaws enforced?

141 Notice to remedy bylaw contraventions

(1) If a municipality finds that a person

(a) is not complying with this Act, or

(b) a bylaw,

the municipality may, by notice in writing, order the person responsible for the contravention to remedy it.

(2) To ensure compliance with the bylaw an order under subsection (1) may,

(a) direct a person to stop doing something, or to change the way in which the person is doing it;

(b) direct a person to do something;

(c) direct a person to take any measures necessary to remedy the contravention of the bylaw and, if necessary, to prevent a re-occurrence of the contravention;

(d) state a time within which something must stop or be done.

142 Appeal to council

(1) A person who receives a notice referred to in section 141(1) may appeal to council by written notice within 14 days of the date the notice is received, or such longer period as a bylaw specifies.

(2) The council may establish or name a council committee to hear and decide appeals made under this section.

143 Council decision and right of appeal to the Court

(1) After hearing an appeal under this section the council, or council committee, may confirm, vary or cancel the order made by the municipality.

(2) A person affected by a decision of a council or council committee under subsection (1) may appeal to the Court of Queen's Bench within 30 days of the date the decision is served on the person.

144 Action suspended during appeal period

No action or measures are to be taken by the municipality to remedy

the contravention of the bylaw during the appeal periods described in this Division or the bylaw, unless there is an emergency or in extraordinary circumstances.

145 Recovery of costs

(1) When, under this or any other enactment or a bylaw, a council directs that a matter or thing be done by a person, the council may also give a written warning that if it is not done, the matter or thing will be done by the municipality at the expense of the person to whom the notice is given.

(2) After

(a) a warning has been given,

(b) a person has not complied with an order made under section 141(1) within the time required, and

(c) the time limit for appeal has expired,

the municipality may cause whatever action or measures to be taken to remedy the contravention of the bylaw in accordance with the order.

(3) A municipality may recover the expenses and costs of an action or measure taken

(a) by proceedings in a court of competent jurisdiction as a civil action,

(b) by adding the costs and expenses to the tax roll in respect of any land owned by the person in default, or

(c) by distress and sale of the personal property of the person in default.

146 Default on payment

Except as provided in this or any other Act, a council may with respect to anything payable to the municipality

(a) that is owing by the owner of land, to charge the unpaid amount to that land, and when the charge is made it

(i) forms a lien against the land in favour of the municipality,

(ii) is deemed for all purposes to be taxes imposed on the land and owing under Part 7 (Finance) from the date the expense was incurred or the charge was due, and

(iii) Part 7 and the *Tax Recovery Act* apply to the enforcement, collection and recovery of the amount, or

(b) that is owing by any person, to collect the unpaid amount as a debt due by that person and a preferential lien and charge on the person's personal property

(i) by civil action for debt in a court of competent jurisdiction, or

(ii) by distress and sale of the person's personal property.[34]

147 Injunction

(1) When

(a) a building is constructed,

(b) a contravention of a bylaw is of a continuing nature, or

34 To be reviewed in light of the *Personal Property Security Act*.

(c) any person is carrying on business or is doing any act, matter or thing without having paid money required to be paid by a bylaw,

in addition to any other remedy and penalty imposed by the bylaw, the municipality may apply to the Court of Queen's Bench for an injunction or other order.

(2) The Court may grant or refuse the injunction or other order or may make any other order that in its opinion the justice of the case requires.

148 Municipal inspections

(1) If a bylaw authorizes or requires anything to be inspected, remedied or enforced, a person authorized by a council may, after giving reasonable notice to the owner or occupier of the land, building, structure or thing to be inspected

(a) enter or inspect, at any reasonable time, anything authorized or required to be inspected, remedied or enforced by the bylaw,

(b) request anything to be produced to assist the entry or inspection, and

(c) take copies of anything related to the entry or inspection.

(2) The person authorized under subsection (1) must display or produce on request an authorization identifying the person as authorized to make the entry or do the inspection.

(3) In an emergency or in extraordinary circumstances a person authorized under subsection (1) need not give reasonable notice or enter or inspect at a reasonable hour.

149 Court authorized inspection

(1) If a person

(a) refuses to allow an entry or inspection under this Act,

(b) refuses to allow an action or measures to be taken to remedy a contravention in accordance with this Act, or

(c) interferes with the entry, inspection, action or measures,

the municipality may apply to the Court of Queen's Bench, by way of originating notice, for an order restraining a person from preventing or interfering with the entry or inspection.

(2) A copy of the originating notice and a copy of each affidavit in support must be served at least 3 days before the day named in the notice for hearing the application.

Division 6

Expropriation

150 Expropriation powers

If a council wants to acquire an estate or interest in land, inside or outside the municipality,

(a) for a purpose authorized by this or other enactments,

(b) for a municipal purpose,

(c) in connection with an area redevelopment plan under the *Planning Act*, whether undertaken by the municipality alone or in conjunction with another person, or

(d) to improve land owned by the municipality,

it may acquire the estate or interest in the land by expropriation under the *Expropriation Act*.

151 Temporary roads

(1) A council may pass a bylaw to open and maintain a temporary road or temporary right of way on private land for public purposes when, in the opinion of the council, a road in the vicinity cannot be used or is not safe to use.

(2) The owner or occupier of land over which the temporary road or temporary right of way passes, or both of them, are entitled to compensation from the municipality for loss or damage resulting from the bylaw.

(3) If there is no agreement the matter must be decided by arbitration under the *Arbitration Act*.

Division 7

Civic holidays

152 Civic holidays

(1) The chief elected official may declare by proclamation a day or 2 half days in a year as civic holidays.

(2) A council may also declare one day or 2 half days of the year as civic holidays.

Division 8

How are bylaws made?

153 Bylaw readings

(1) Every proposed bylaw must have 3 distinct and separate readings at a meeting of council before it is finally passed.

(2) A proposed bylaw cannot have more than 2 readings at a council meeting unless the councillors present unanimously agree to consider 3rd reading.

(3) If a proposed by-law is in writing and available to councillors and the public, only the title or identifying number need be read at each reading of the bylaw.

154 Votes after each reading

(1) After reading of a proposed bylaw, and debate if any, council must vote on it.

(2) A proposed bylaw cannot be given a further reading unless a majority of the councillors voting on the reading vote in favour of it.

(3) Before 3rd reading of a proposed bylaw each councillor present at the meeting at which 3rd reading is to take place must be given or have had the opportunity to review the full text of the proposed bylaw.

155 Cancellation of previous bylaw readings

The previous readings of a proposed bylaw are rescinded if the proposed bylaw

(a) does not receive 3rd reading within 2 years of 1st reading, or

(b) is defeated on 2nd or 3rd reading.

156 Coming into force

A bylaw comes into effect

(a) on the day after it is given 3rd reading,

(b) on any later date or dates specified in the bylaw, or

(c) if approval of the bylaw is required, on the date the approval is given or on any future date specified in the approval of the bylaw.[35]

157 Repeal or amendment of bylaws

A council may repeal or amend bylaws unless this or other enactments specifically prohibit or limit that power.

Division 9

Advertising bylaws, resolutions and public meetings and giving notice of public hearings

158 Some bylaws and resolutions must be advertised

When this or another enactment requires

(a) a proposed bylaw to be advertised, the advertisement must take place before 2nd reading, or

(b) a proposed resolution to be advertised, the advertisement must take place before it is voted on by council.

35 Some bylaws must be approved by the Local Authorities Board.

159 What is "advertising"?

(1) A proposed bylaw, resolution or public meeting is "advertised" for the purposes of this Act if a notice of the proposed bylaw, resolution or meeting is published at least once a week for 2 consecutive weeks in at least one newspaper or other publication circulating in the area to which the proposed bylaw or resolution relates, or in which the meeting is to be held.

(2) The published notice must contain

(a) a statement of the purpose of the proposed bylaw, resolution or meeting,

(b) the address where a copy of the proposed bylaw or resolution, and any related documents or documents relating to the meeting can be inspected, and

(c) if necessary, an outline of the procedure to be followed by anyone wishing to file a petition in respect of the proposed bylaw or resolution.

160 Notice of public hearings

(1) When this or another enactment requires council to hold a public hearing on a proposed bylaw or resolution the public hearing must be held

(a) before 2nd reading of the bylaw, or

(b) before council votes on the resolution.

(2) The council must publish a notice of the public hearing in 2 issues of at least one newspaper or other publication circulating in the area to which the proposed bylaw or resolution relates.

(3) The notice must contain

(a) a statement of the purpose of the meeting,

(b) the proposed bylaw or resolution, or a description of it,

(c) the address where a copy of the proposed bylaw or resolution, and any related documents, may be inspected by the public,

(d) the one or more dates, places and times the council will hold a public hearing with respect to the proposed bylaw or resolution, and

(e) a description of the procedure to be followed at the hearing.

Division 10

How can bylaws be kept up to date and made understandable?

161 What is the purpose of the Division?

The purpose of this Division is to enable a council to make bylaws more accessible and understandable by allowing a revision of bylaws to be undertaken.

162 Who will do the work?

A revision is to be undertaken by a person or persons, appointed by the council, to be known as "the revisor".

163 Revision authorized

(1) A bylaw may authorize the revisor to revise all or any of the bylaws of the municipality.

(2) In the work of bylaw revision the revisor may be authorized to

(a) make changes necessary to bring out more clearly what is considered to be the meaning of a bylaw or to improve the expression of the law,

(b) consolidate 2 or more bylaws into one, divide a bylaw into 2 or more bylaws, move provisions from one bylaw to another and create a draft bylaw from another or 2 or more others;

(c) omit and provide for the repeal of bylaws that are inoperative, obsolete, expired, spent or otherwise ineffective;

(d) omit, without providing for its repeal, a bylaw of general application that is of a transitional nature or that refers only to a particular place, person or thing or that has no general application throughout the municipality;

(e) alter the citation or title of a bylaw, or the numbering or arrangement of its provisions, and add, change or omit a note, heading, title, marginal note, diagram or example to a bylaw;

(f) omit preambles and the long title and, if appropriate, incorporate the long title or preamble as a purpose section;

(g) omit forms or other material contained in a bylaw that can more conveniently be contained in a resolution, and add to the draft revised bylaw authority for the forms or other material to be prescribed by resolution.

(3) In preparing drafts of revised bylaws the revisor must not make any substantial change to the meaning of a bylaw.

164 Examination of revised bylaws

(1) The chief administrative officer must provide drafts of revised bylaws prepared by the revisor to a council committee authorized to examine and approve the drafts.

(2) When one or more of the drafts have been approved by the council

committee, the chief elected official must introduce a bylaw substantially in accordance with the model bylaw set out in Schedule 5, or to like effect.

(3) The revised bylaws presented to council must, individually or collectively,

(a) be certified by the revisor as having been revised in accordance with the bylaw authorizing the revision, and

(b) countersigned by the chief administrative officer that the officer concurs with the revisor's certificate.

SUB PART 2

MUNICIPAL ADMINISTRATION

165 What is the purpose of this Sub Part?

The purpose of this Sub Part is to provide

(a) for the establishment of effective forms of management of the human, financial and material resources of the municipality;

(b) an efficient means of implementing council's policies and carrying out council's programs;

(c) a means to carry out the functions and duties given to or imposed on the chief administrative officer and designated officers by this, other enactments and bylaws.

166 Municipal office

Every council must name a place as its municipal office.

167 Chief administrative officer

(1) Every council must appoint one or more persons to carry out the functions, duties and powers of a chief administrative officer under this and other enactments.

(2) The council may give the person or persons appointed under subsection (1) the title or titles it considers appropriate.

(3) A person referred to in subsection (1) may only be appointed or terminated by a 2/3 majority vote of the whole council.

(4) The council must review the performance of the chief administrative officer at least once a year.

168 Maintenance of records

A municipality must assign to the chief administrative officer, or to other officers appointed by it, the following responsibilities:

(a) to record, in the English language, without note or comment,

(i) all resolutions, decisions and other proceedings of the council, and

(ii) the names of the councillors present at council meetings,

(b) to make sure the minutes of each council meeting are given to the council for adoption at a subsequent meeting of the council,

(c) to keep the original of all bylaws safe,

(d) to keep safe all documents and records

(i) presented at meetings of council, or

(ii) given or sent by council to the chief administrative officer,

(e) to send the Minister the names of the persons elected as councillors within 5 days of the organizational meeting of the council at which they take office, and any other information the Minister requires,

(f) to keep custody of the corporate seal,

(g) to collect, receive and arrange safekeeping of money belonging to or accruing to the municipality, and issue receipts in a manner or form directed by the council,

(h) to deposit in a financial institution designated by the council all money belonging to the municipality,

(i) to pay all accounts which are a proper charge against the municipality for any purpose authorized in the estimates of expenditure or by resolution of the council,

(j) to maintain accurate records of the financial affairs of the municipality,

(k) to report to council as often as the council directs on the actual revenues and expenditures of the municipality compared to the estimates approved by the council, and

(l) such other functions or duties as are imposed by a bylaw.

169 Designated officers

(1) Every council may appoint one or more persons to carry out the functions, duties and powers of a designated officer under this and other enactments.

(2) The council may give the person or persons appointed under subsection (1) the title or titles it considers appropriate.

(3) A person appointed to carry out all or some of the functions, duties and powers of the chief administrative officer may also be appointed to carry out some or all of the functions, duties and powers of a designated officer.

170 Signing authorities

(1) Minutes of council meetings must be signed by

(a) the chief elected official, and

(b) a designated officer.

(2) Bylaws of the municipality must be signed by

(a) the chief elected official, and

(b) a designated officer.

(3) Cheques and other negotiable instruments must be signed or authorized

(a) by the chief elected official or another person authorized by council to sign them, and

(b) a designated officer,

or by a designated officer acting alone if so authorized by the council.

(4) Signatures may be printed, lithographed or otherwise mechanically reproduced if so authorized by council.

171 Bylaw enforcement officers

(1) An employee of a municipality who is appointed as a bylaw enforcement officer is, in the execution of enforcement duties, a

person employed for the preservation and maintenance of the public peace.

(2) Bylaw enforcement officers must take the official oath prescribed by the Oaths of Office Act before starting their duties.

172 Powers and duties of bylaw enforcement officers

The council must pass a bylaw

(a) specifying the powers and duties of bylaw enforcement officers, and

(b) establishing disciplinary procedures, including penalties and an appeal process, applicable to bylaw enforcement officers.

173 Training standards for bylaw enforcement officers

The Minister may prescribe training standards for bylaw enforcement officers.

SUB PART 3

LIMITS ON CORPORATE ACTIVITIES OF MUNICIPALITIES[36]

Division 1

Land and weather modification agreements

174 Disposal of land

(1) If a municipality proposes to dispose of or grant an estate or interest in land or a building for less than its fair market value the proposal must be advertised, unless subsection (2) applies.

(2) Subsection (1) does not apply when a municipality disposes of or grants an estate or interest in land or a building to

(a) the Crown in right of Alberta, the Crown in right of Canada or an agency of either Crown,

(b) a municipality or an agency of a municipality,

(c) the board of trustees of a school district or division,

(d) a technical institute, public college or university,

(e) a non-profit organization formed under a law of Alberta or of Canada, or

(f) provides land for a public utility.

36 A municipality has the rights, powers and privileges of an individual except as they are modified by its corporate status or by this Act. This Division deals with some of those limits. Others appear in other sections (for example before money can be spent on a municipal program it must show up in the operating budget).

(3) This section does not apply to the disposition or granting of an estate or interest in land or a building under the *Tax Recovery Act*.

175 Acquisition of land outside municipal boundaries

(1) Before a municipality acquires any estate or interest in land outside its boundaries the council must get the approval of the council within whose boundaries the land is located.

(2) No bylaw or resolution acquiring an estate or interest in land outside its boundaries can be passed without the written consent of the municipality in whose boundaries the land is located.

(3) If approval cannot be obtained either municipality may request the Minister to initiate municipal co-operation procedures under Schedule 2.

(4) A municipality does not need to obtain approval to acquire an option on land outside its boundaries.

176 Weather modification agreements

(1) A municipality must not make an agreement to provide weather modification services to the municipality, or amend the agreement, unless the agreement or amendment is authorized by a bylaw.

(2) A bylaw under subsection (1) must be advertised.

Division 2

Municipal benefits and services and public utilities

177 Providing municipal benefits and services

(1) A municipality may

(a) supply for public consumption, or

(b) provide for public benefit or convenience,

anything which the council considers is reasonably necessary to maintain the best standards of living for the inhabitants of the municipality under modern conditions.

(2) The supply or provision of anything under subsection (1) may be established and operated as a revenue generating activity for the municipality either within or, by agreement with other municipalities, outside its boundaries.

178 Municipally operated public utilities

(1) When a municipality operates a public utility the council may pass a bylaw prohibiting any other person operating the same public utility in all or any part of the municipality.

(2) When a municipality provides a public utility, and is able to do so, it must supply all buildings on land lying along the line of the public utility on request of the owner or occupant of the building.

179 Exclusive right to provide public utilities can be granted

(1) A council may, by agreement, grant an exclusive right to a person to

supply or provide a public utility[37] to the public in the municipality.

(2) An agreement under this section may include an arrangement to pay a fixed sum instead of paying property tax on improvements, in accordance with section 206(7) and (8).

(3) Before an agreement under this section is made, amended or renewed, it must

(a) be advertised, and

(b) be approved by the Public Utilities Board.

180 Long term supply agreements to public utilities

If a council proposes to make an agreement with a person for the supply to a public utility of

(a) water or steam,

(b) natural or artificial gas, or

(c) electric power,

for a period, with rights of renewal, that could exceed 5 years, the agreement must be approved by the Public Utilities Board before it is made.

181 Responsibility to maintain and repair

The owner of land is responsible to repair and maintain service connections to receive a public utility, unless an agreement with the municipality or a bylaw provides otherwise.

37 "public utility" is defined in Schedule 1.

182 Water and sewer connections

(1) By a vote of 2/3 of the whole council, a council may pass bylaws

(a) directing the owner of a building on land lying along a sewer main or water main to install equipment so that the building is connected to the sewer or water mains, or both, and anything required to ensure the proper sanitary condition of the building;

(b) prohibiting the use of toilets or sanitary or septic systems that are not connected with the sewer mains and providing for toilets or sanitary or septic systems to be removed or filled up;

(c) directing the owner of a building or structure on land abutting a road where a system of storm sewers is located to connect the building or structure to the system.

(2) If the owner does not do as the bylaw requires within the period of time fixed by the bylaw, the municipality may enter the land and building or structure concerned and make the connection at the expense of the owner.

183 Other authorizations and approvals

Nothing in this Part exempts a municipality or other person from obtaining necessary approvals or other authorizations under a law of Alberta or Canada.[38]

38 For example, under Alberta's *Clean Water Act* waterworks systems, and sewer and sewerage projects must get Provincial approval.

Division 3

Municipal utility rate structures

184 Appeal

(1) A person who uses or receives a service from a public utility may appeal a service charge made in respect of it to the Public Utilities Board.

(2) If the Public Utilities Board is satisfied that the service charge

(a) does not conform to the public utility rate structure established by the municipality, or

(b) has been improperly imposed,

the Board may order the charge to be wholly or partly varied, adjusted or disallowed.

Division 4

Effect of annexation and changes in municipal boundaries on rural gas franchises

185 Definitions

In this Division

(a) "***distributor***", "***franchise area***" and "***rural gas utility***" have the same meaning as they have in the *Rural Gas Act*;[39]

(b) "***annexed franchise area***" means

(i) an area of land annexed from one municipality to another, or

(ii) an area of land the administration of which is transferred from one municipality to another;

(c) "***Provincial chief officer***" has the same meaning as "***chief officer***" in the *Rural Gas Act*.[40]

186 How does annexation affect rural gas utilities?

(1) When all or part of the franchise area of a rural gas utility is annexed or transferred to the boundaries of a city, town, village or summer village the new council responsible for the annexed franchise area

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39 In the *Rural Gas Act* those words are defined as follows:

(d) *"distributor" means*

(i) the owner of a gas utility to which the Gas Utilities Act applies,

(ii) a member-owned co-operative association,

(iii) a rural municipal authority, or

(iv) a remote urban municipality designated by the Minister under section 2

that owns or operates a rural gas utility;

(g) *"franchise area" means the area prescribed as the franchise area in a franchise area approval;*

(o) *"rural gas utility" means a system of pipelines for the distribution and delivery of gas and which provides gas service wholly or primarily to rural consumers in Alberta or consumers in remote urban municipalities in Alberta;*

40 The *Rural Gas Act* defines "chief officer" as:

(b) *"chief officer" means the Deputy Minister of the Department or an employee of the Department designated by the Minister as chief officer;*

must request proposals for the supply of natural gas to the annexed franchise area from

(a) the existing distributor to the annexed franchise area, and

(b) the person holding any agreement or right to supply natural gas to the municipality.

(2) The city, town, village or summer village council must decide which person is to continue to supply natural gas to the annexed franchise area within 1 year of the effective date of the order creating the annexed franchise area.

(3) The council must send a copy of its decision to the persons who made proposals to it.

187 What happens in the annexed franchise area while council makes a decision?

During the period between

(a) the effective date of the order creating the annexed franchise area, and

(b) the date on which the council or other person makes a final decision about which person is to continue to supply natural gas to the annexed franchise area,

the distributor of the rural gas utility must continue to supply natural gas to the area, unless an agreement provides otherwise.

188 Council's former agreements are not binding

(1) Council may make its decision under this Division even though it previously granted an exclusive franchise or right to another distributor to supply natural gas to consumers or other persons in the municipality.

(2) A decision of a council under this Division does not create a right to bring a legal action against the municipality or other person even though it contravenes a provision of an agreement with, or grant made to, another person.

189 Application under the Rural Gas Act

As soon as practicable after making its decision about who is to supply natural gas to the annexed franchise area the council must notify the Provincial chief officer of its decision, and the Provincial chief officer must amend the distributor's franchise area accordingly.

190 What happens if the distributor loses the franchise area?

(1) If

(a) a council decides that a distributor cannot continue to supply natural gas to the annexed franchise area, and

(b) the distributor has, before council's decision, supplied natural gas to consumers in the area,

the distributor is entitled to compensation in accordance with subsection (2).

(2) Compensation must be paid for loss or reduction in value of plant or equipment in, or associated with, a natural gas utility in the annexed franchise area, including

(a) the loss in value of equipment and plant sold, and

(b) the plant or equipment abandoned or relocated as a result of council's decision.

NOTE TO READER: The words describing the basis for the compensation will need refinement.

191 Right of appeal

(1) If

(a) council does not make a decision on who is to supply natural gas to the annexed franchise area within 12 months of the effective date of the order creating the area,

(b) the Provincial chief officer does not amend the franchise area within 60 days of being requested to do so, or

(c) the distributor is not paid compensation within 6 months of council's decision not to allow the distributor to continue to supply natural gas to the annexed franchise area,

the distributor, the council or other interested party, may appeal to the Public Utilities Board by written notice.

(2) After hearing an appeal the Public Utilities Board may

(a) state the date by which a council must make a decision on who is to supply natural gas to the annexed or transferred area and notify the Provincial chief officer;

(b) order the date by which the Provincial chief officer is to amend the distributors's franchise area;

(c) order the amount of compensation to be paid by and to whom, and the date by which it is to be paid.

192 Effect of annexations and boundary changes on supply agreements, franchises and exclusive rights

(1) Subsections (2) and (3) apply if

(a) an agreement for the supply of water, steam, natural or artificial gas or electric power to a public utility has been entered into by a municipality under this Act or a predecessor

of this Act, or

(b) an exclusive franchise or exclusive right to provide a public utility to the public has been granted under this Act or a predecessor of this Act,

and the area of land to which the agreement, franchise or right has been granted is annexed to or included in the boundaries of another municipality (the "***new municipality***").

(2) The agreement, franchise or right referred to in subsection (1) is, with respect to the area of land annexed to or included in the new municipality, deemed to have been made with the new municipality on its original date.

(3) If an agreement, franchise or right already exists in the new municipality and it is amended to take account of the area annexed to or included in the new municipality, the resolution or bylaw effecting the amendment does not need to be advertised.

(4) This section does not apply to an annexation or boundary change affecting a rural gas utility described in sections 186 to 190.

PART 7

HOW DOES A MUNICIPALITY PAY, AND ACCOUNT, FOR WHAT IT DOES?

Division 1

Operating and capital budgets

193 Financial year

The financial year of a municipality is the calendar year.

194 Adoption of operating budget

(1) Before the start of each calendar year a council must adopt

(a) an operating budget for the next calendar year, or

(b) an interim budget for part of that year.

(2) If a council adopts an interim budget it must adopt an operating budget for the year as soon as practicable after January 1.

(3) If a council does not adopt an operating budget or an interim budget before a calendar year starts the council is deemed to have adopted 1/3 of the previous year's operating budget as the interim budget for the first 4 months of the year.

195 Operating budgets

(1) An operating budget or an interim budget must include, as estimated expenditures, sufficient money divided up into the following categories:

(a) to pay for council's policies and programs;

(b) to pay debenture instalments, interest and sinking fund payments or, in the case of public utilities, depreciation and depletion allowance;

(c) to contribute to a general or designated reserve funds, or to a capital project;

(d) to recover deficiencies in revenue or over expenditures in the previous 3 years, unless otherwise directed by the Minister.

(2) An operating budget must include, as revenues, the money needed to pay for the estimated expenditures divided between the amounts proposed to be raised by

(a) taxation (other than property tax), identifying each source of tax;

(b) grants in place of taxes;

(c) payments from Federal, Provincial, municipal and other governments;

(d) all other sources of revenue, other than property tax;

(e) property tax.

(3) A direction by the Minister under subsection (1)(d) may be made at any time and may direct that any expenditures be made or revenues be raised for such period of time as the Minister considers appropriate.

196 Capital budget preparation

During each calendar year a council must

(a) prepare an estimate of capital expenditures for the next 3 years or a longer period decided by the council, and

(b) adopt a capital budget for the immediately following calendar year.

197 Capital budget contents

A capital budget must include an estimate of

(a) the probably cost of acquiring, constructing or improving physical or tangible assets having a useful life of more than 1 year;

(b) the probable source of funding for the capital costs of the assets described in clause (a);

(c) the probable annual operating costs and revenues associated with a capital project, including the contributions to a general or designated reserve fund or to a capital project.

198 Expenditure of money

(1) A municipality must not spend money unless the expenditure is included in

(a) an interim budget,

(b) an operating budget, or

(c) a capital budget,

or the expenditure is made for an emergency or in extraordinary circumstances.

(2) A council must establish procedures to authorize and verify expenditures made for emergencies or in extraordinary circumstances.

(3) When an expenditure is made for an emergency or in extraordinary circumstances the operating budget must be adjusted accordingly.

199 Designated reserve funds

(1) Money collected for special purpose reserve funds must be accounted for in special purpose reserve fund accounts and may only be spent for the purpose for which the funds were established.

(2) If the purpose of a reserve fund is satisfied or is no longer required the council, by bylaw, may authorize use of the remaining funds for some other purpose and a bylaw under this subsection must be advertised.

200 Use of money

If a municipality wishes to invest its funds it may only invest in

(a) securities of Canada or of any province of Canada,

(b) securities the payment of which is guaranteed by Canada or a province of Canada,

(c) debentures of a municipality, school division, school district, hospital district or regional services commission in Alberta, including those of the municipality which established the account,

(d) any of the investments authorized for insurance companies by the *Canadian and British Insurance Companies Act (Canada)*, other than investments under section 63(4) of that Act,

(e) notes, deposit receipts or term deposit certificates of a bank, treasury branch or credit union,

(f) investment certificates as defined in and issued by a trust company registered under the *Trust Companies Act*,

(g) the shares of a business corporation established under the *Canada Business Corporations Act*, with the prior approval of the Minister, and

(h) shares, memberships or other associations in a society, credit union, cooperative or other non-profit entity established under a law of Canada or Alberta.

Division 2

Property taxation

NOTE TO READER: The sections dealing with taxation and debentures require redrafting and refinement. A number of key definitions remain to be developed.

201 Property tax rate bylaw

(1) A council must pass a property tax rate bylaw every calendar year.

(2) The property tax rate bylaw must levy a tax on the assessed value of all taxable property shown on the assessment roll at the uniform rate on the dollar that the council considers sufficient to produce the sums necessary

(a) to raise the property tax revenues estimated in the operating budget,

(b) to pay the requisitions of

(i) hospital districts under the *Hospitals Act*, ambulance districts under the *Ambulance Services Act* and school districts or school divisions under the *School Act*, and

(ii) the Government of Alberta under the *School Act* and the Alberta Planning Board under the *Planning Act*, and

(c) to pay other sums that a municipality may become liable to pay under this or other enactments or an agreement,

(d) to provide an allowance for any sum anticipated to be raised by business tax, grants in place of tax and property tax, but which can reasonably be expected to remain unpaid during the year, and

(e) if necessary, to provide for discounts for prepayment of taxes.

(3) When a requisition applies to only part of a municipality, the tax to be levied to meet the requisition must be levied only on the assessed value of taxable property shown on the assessment roll in that part of the municipality to which the requisition applies, unless subsection (4) applies.

(4) Despite subsection (3),

(a) a council may authorize a levy at a uniform rate on the dollar sufficient to produce the combined requisitions of all hospital districts and ambulance districts, and

(b) taxes on property assessed under the *Electric Power and Pipeline Assessment Act* must be levied at a uniform rate throughout the municipality.

(5) A bylaw under this section may provide for a minimum amount payable in respect of a parcel of land or fraction of a quarter section.

(6) The property tax rate bylaw may combine into one rate or separate into different rates the taxes to be levied and payable by a public school supporter and by a separate school supporter.

(7) A property tax rate bylaw may not be amended on or after the date on which the tax notices are mailed.

202 Requisition adjustments

If during the previous calendar year the sums raised

(a) as requisitions under section 201(2)(b), or

(b) for other payments under section 201(2)(c),

exceeded or were insufficient to meet the requisitions or payments required, the council must deduct from or add to the requisition or required payment for the current year the excess or the deficiency, as the case requires.

203 Split tax rates

(1) In this section

(a) "***farmland***" means farmland as defined in the (proposed) *Real Property Assessment Act*;

(b) "***residential property***" includes

(i) a building used only for residential purposes, and the parcel of land forming its site,

(ii) any other building situated on the same parcel of land, the use of which is directly ancillary to residential use,

(iii) if there is a mixed use of a building, the proportionate amount of the building used for residential purposes and the proportionate amount of the site, and

(iv) a parcel of land that is vacant residential land;

(c) "***vacant residential land***" means vacant residential land[41] as defined in the *Property Tax Reduction Act*;

(d) "***vacant non-residential land***" means land with no improvements located on, in, over or under it but does not include farmland or vacant residential land.

(2) A council may provide by bylaw for

41 "vacant residential land" is defined in the *Property Tax Reduction Act* as:

(m.1) "vacant residential land" means land

(i) that is used for purposes ancillary to a residence or is not used for any purpose, and

(ii) that is designated under a land use bylaw and subdivided for residential or country residential use;

(a) the classification of assessed property as "residential property" and "non-residential property",

(b) a further classification of property as farm land,

(c) the further sub-classification of residential property and non-residential property into different classes on any basis it considers proper, and

(d) the further sub-classification of any class of property into different classes for land and improvements.

(3) A bylaw passed under subsection (2) must provide for the classification of vacant residential land and vacant non-residential land.

(4) If a bylaw is passed under subsection (2) the council may in passing a property tax rate bylaw establish a property tax rate for each class or sub-class of property.

204 Special taxes

(1) In addition to a property tax rate bylaw a council may levy, by bylaw, annual special taxes for a specific service in respect of an area of the municipality in which the service is provided, of an amount

(a) per parcel,

(b) per unit of frontage, or

(c) per unit of area.

(2) A special tax bylaw may only be passed if the cost of the service provided is included in the estimated expenditures in the operating budget.

(3) The amount collected as a special tax must be applied to the specific

service for which it is levied.

205 Supplementary tax

(1) If a council passes a supplementary assessment bylaw under the (proposed) *Real Property Assessment Act* the council may levy a supplementary property tax on the assessed value of the completed improvements shown on the supplementary assessment roll in accordance with subsection (2).

(2) The calculation of the tax is

$$\frac{\text{Supplementary assessment of the completed improvement} \times \text{mill rate for the calendar year} \times \text{number of months improvement occupied or used}}{12}$$

(3) The provisions of this Act with respect to tax notices apply to the tax levied under this section.

206 Special franchise assessment and taxation

(1) In this section *"special franchise"* means

(a) every right, authority or permission, whether exclusive or otherwise, to construct, maintain or operate within a municipality and in, under above, on or through or across a highway, road, street, lane, public place or public water within the jurisdiction of the municipality, any poles, wires, pipes, tracks, conduits, buildings, erections, structures or other things for the purpose of bridges, railways, tramways or for the purposes of conducting steam, heat, water, gas, natural gas, oil, electricity or any property, substance or product capable of being transported, transmitted or conveyed for the supply of water or heater, light, power, transportation, telegraphic, telephone or other service, and

(b) any other service, supply, or thing approved by the Lieutenant Governor in Council by regulation.

(2) In addition to any assessment on land, improvements, pipelines or works and transmission lines assessable under this Act or the *Electric Power and Pipe Line Assessment Act*, the holder of a special franchise is liable to assessment in respect of the franchise.

(3) A special franchise shall be assessed at the percentage of the fair actual value of the machinery, equipment and apparatus used in the exercise of the franchise and not otherwise assessed, prescribed in the regulations.

(4) Notwithstanding section 33 (of the *Municipal Taxation Act*), a special franchise shall be reassessed not later than December 31 in each year and accrued depreciation to the date of assessment shall be allowed on the machinery, equipment and apparatus mentioned in subsection (3).

(5) All property that is exempt from assessment under the *Electric Power and Pipe Line Assessment Act* and property exempt from assessment under section 24(1)(z) (of the *Municipal Taxation Act*) shall not be included in an assessment under subsection (2).

(6) This section shall not be construed so as to abrogate the conditions of any subsisting special franchise agreement.

(7) A municipality may with the approval of the Public Utilities Board enter into an agreement with the holder of a special franchise whereby the municipality accepts payment of an amount equal to a fixed percentage of the gross revenue of the special franchise from the holder in lieu of taxing the special franchise, lands, improvements, pipelines, works and transmission lines, machinery, equipment and apparatus belonging to and used by the special franchise holder in the exercise of the franchise.

(8) For the purposes of subsection (7), the gross revenue of a special franchise for a year, in the case of a special franchise for the supply of natural gas, is the aggregate of

(a) the gross revenue of the special franchise for the year, and

(b) an amount for the year obtained by multiplying

(i) the quantity of natural gas in respect of which transportation service was provided during the year by means of the natural gas distribution system of the holder of the special franchise,

by

(ii) the deemed value per unit quantity of natural gas determined by the Public Utilities Board for that year for the natural gas in respect of which transportation service was so provided.

207 Other municipal taxes

(1) On the request of the Minister, the Lieutenant Governor in Council may make regulations[42]

(a) authorizing a municipality to impose a form or system of taxation;

(b) regulating the imposition and collection of the tax;

(c) respecting any matters incidental to the imposition and collection of the tax as are considered necessary.

(2) Before making a request under subsection (1) the Minister must consult with the Presidents of the relevant municipal associations about the recommendations.

(3) A regulation under this section may relate to one or more

42 Regulations under this section will replace the existing provision for well drilling tax and mobile unit taxation. The section allows taxing authority to be expanded and kept up to date by regulation.

municipalities or geographic areas of Alberta.

208 Compromise, cancellation and refund of taxes

(1) A council may pass a resolution with respect to any specific property or business for the purpose of

(a) compromising payment of arrears of taxes on any terms that may be agreed upon;

(b) cancelling arrears of taxes that are no longer collectible from the person taxed;

(c) cancelling or refunding all or any part of a tax levy where the council considers it equitable to do so;

(d) the phasing in of a tax increase or decrease resulting from a general assessment over a period not exceeding 3 years by cancelling or refunding a portion of the tax levy and in this section *"taxes"* means any taxes levied under this Part.

(2) This section does not apply to local improvement taxes, the payment of which may only be temporarily suspended or deferred.

209 Tax roll

(1) In this section *"taxes"* means the taxes levied under this Part and the amounts charged as taxes under section 146.

(2) The tax roll can be

(a) a continuation of the assessment roll and may combine all classes of taxes, or

(b) a separate roll for each distinct class of taxes.

(3) A designated official must enter on the tax roll information sufficient

to detail

(a) who is liable to pay the tax,

(b) the property being taxed,

(c) the basis on which the property is taxed,

(d) the amount of the tax,

(e) the amount outstanding, and

(f) any information which council may direct to be included.

(4) Every person shown on the roll as liable to pay the taxes must pay the taxes and any penalties or costs irrespective of the nature or amount of the person's interest in the assessed property.

210 Assessment and tax certificates

(1) A designated official, on receipt of a request, must issue a certificate regarding the assessment, taxation, or the status of taxes outstanding.

(2) A request for a certificate under this section must be made in the manner approved by the council.

(3) A person whose name appears on the assessment roll is not liable to pay a fee under this section to inspect the assessment roll during the period provided for review of the roll following its preparation.

211 Tax notice

(1) The designated official must

(a) mail to, or

(b) deliver to an adult person at

the address shown on the tax roll of the person liable to pay the tax one notice during the year with respect to each parcel.

(2) The tax notice may combine a number of parcels owned by the same owner on one notice.

(3) The tax notice must show in respect of each parcel or parcels

(a) the name, address and school support of the person liable to pay the tax,

(b) the same information that is shown on the tax roll,

(c) the date on which a penalty may be imposed in default of payment of the taxes, and

(d) the place or places at which the taxes may be paid.

(4) If a council has provided for the payment of taxes by instalments the tax notice or a separate notice enclosed with the tax notice must also show

(a) the amount and due dates of the instalments to be paid in the remainder of the year, and

(b) the effect of default of payment of any instalment.

(5) A council may authorize the tax notice to be divided into two notices

(a) one relating to the taxes imposed as a result of one or more of the requisitions made on the municipality, and

(b) one relating to all other taxes.

(6) A reference in this Act to a tax "notice" is to be read as a reference to both tax notices if 2 are used.

(7) A designated official must enter on the tax roll the date of mailing or delivery of the tax notice, and that entry on the roll is prima facie proof of the levy of the taxes on that date without proof of the authority of the person making the entry to make it, and the absence of any date is prima facie proof that the address of the person named on the roll is unknown.

(8) No tax notice is to be considered irregular, incomplete or otherwise invalid and no exemption from taxation is conferred by reason of any error, omission or misdescription in the notice or by reason of the non-receipt of the notice by any person.

(9) No tax notice need be sent to any purchaser unless the municipality has received notice in writing requesting that notices of assessment and taxation be sent to the purchaser.

212 Interim tax notice

(1) If a council adopts an interim budget, the council may pass an interim tax rate bylaw and may authorize the designated official to issue an interim tax notice.

(2) The provisions of this Act with respect to a tax rate bylaw and a tax notice apply to an interim tax rate bylaw and an interim tax notice.

213 Instalment payment of taxes

(1) A council by bylaw may provide that taxes be paid, at the option of the person liable to pay the tax, by instalments.

(2) A bylaw under this section may provide that if an instalment is not made by its due date

(a) the subsequent instalment or instalments become payable immediately, or

(b) that a penalty is payable as prescribed by the bylaw,

or both.

214 Penalties for unpaid current taxes

A council by bylaw may

(a) establish dates for payment of any or all taxes,

(b) impose a penalty for the non-payment of the taxes by the due date or dates,

(c) provide for the imposition of the penalty on a sliding scale,

(d) alter or vary the penalty and the date or dates on which it is imposed,

but the aggregate of all penalties imposed must not exceed a total of 18% of the amount outstanding for the current year.

215 Penalties for arrears of taxes

(1) Taxes shall be deemed to be in arrears when they remain unpaid after December 31 of the year in which they were imposed.

(2) A council may by bylaw impose penalties on the arrears of taxes in amount not exceeding an aggregate of 18% in any year and said penalty may be imposed each following year thereafter as long as the taxes remain unpaid.

(3) A penalty under this section may be imposed on January 1 or any other date or dates specified in the bylaw.

(4) When taxes in respect of any parcel are in arrears the *Tax Recovery Act* applies.

216 Effect of bylaws

(1) A bylaw passed under sections 213(2), 214 or 215 shall not be construed to extend the time for payment of the taxes or in any way to impair any remedy provided by an Act for the collection of taxes and any penalty imposed under such bylaw must be added to and forms part of the taxes.

(2) A bylaw under this section may provide for the imposition of a penalty, on taxes levied in that year, not earlier than 30 days after the mailing or delivery of the tax notices but the aggregate of all penalties imposed before June 30 shall not exceed a total of 9% in any year.

217 Discount for prepayment

A council by bylaw may provide for discounts or the payment of interest by the municipality on payments of taxes made before the date or dates established in the bylaw.

218 Date of payments

Payments shall be deemed to have been received in the municipal office on

'a) the date of the post mark stamped on the envelope containing the payment if the post mark was made by Canada Post,

(b) the due date or 4 days before the actual date of receipt whichever is later, if the envelope is postmarked by a postage meter or other device by a person other than Canada Post, or

(c) the actual date of receipt if delivered directly by a person other than Canada Post.

219 Receipt for payments

When the designated official receives any payment of taxes, a receipt must be given for it in the manner approved by the council.

220 Application of tax payments

(1) If arrears of taxes are owing on any property, any payment of taxes received shall be applied first in payment of those arrears.

(2) If a payment of taxes is made by a person assessed in respect of more than one parcel and the person does not signify the manner in which or the parcel or parcels on which the payment is to be applied, the designated official must apply the payment in the order in which the parcels appear on the tax roll.

221 Money payable under fire insurance policy

(1) All taxes due in respect of improvements are a first charge on any money payable under a fire insurance policy in respect of loss or damage to those improvements.

(2) All taxes due in respect of any business assessment are a first charge on any money payable under a fire insurance policy in respect of loss or damage to any personal property located on the premises in which the assessed business is carried on which are used in connection with that business and which belong to the person assessed in respect of the business.

(3) This section does not create a charge on any money payable under a fire insurance policy

(a) unless the money payable for damage or loss to improvements or person property is $1000 or more,

(b) notwithstanding clause (a), the money payable is for a total loss of the property insured, or

(c) which was effected and maintained for the person's own protection by a mortgagor of the property insured.

(4) As soon as possible after an insurer receives notice of loss or damage under a fire insurance policy, the insurer must give notice, by registered mail, of the loss or damage to the chief administrative officer of the municipality in which the property is situated.

(5) Within 15 days of the mailing of the notice in accordance with subsection (4), the chief administrative officer must notify, by registered mail, the insurer of the full amount of the taxes dues in respect of the improvements and any business carried on the premises.

(6) When a charge arises under this section and a notice is mailed in accordance with subsection (5), the insurer must pay to the municipality

(a) the amount of the taxes stated in the notice to be due to the municipality, or

(b) the amount the insurer is liable to pay under the policy, whichever is the lesser.

(7) On payment being made under subsection (6), the amount for which the insurer is liable under the policy is reduced by the amount of the payment.

222 Priority of taxes

(1) The taxes, penalties and costs due under this Part in respect of any land or any improvement are recoverable with interest as a debt due to the municipality from any person without affecting that person's recourse against any other person, who

(a) was the owner, purchaser, lessee, licensee or permittee of it at the time of its assessment, or

(b) subsequently became the owner, purchaser, lessee, licensee or permittee of the whole or any part of it, and are a special lien on that person's estate or interest

(i) in the land in respect of which the taxes are due and the improvement on it, or

(ii) in the improvement in respect of which the taxes are due and the land on which it is situated, as the case may be, except insofar as the land is exempt from taxation,

in priority to every claim, privilege, lien or encumbrance of every person, except the Crown, and the lien and priority are not lost or impaired by any neglect, omission or error.

(2) All business taxes, penalties and costs may be recovered with interest as a debt due to the municipality from the person carrying on the business at the time of its assessment.

(3) A copy, certified by a designated official, of so much of the assessment roll or tax roll as relates to the taxes payable by any person is prima facie proof of the debt.

(4) Any debt due to the Minister for taxes in respect of an improvement district or special area has the same priority under this section as a debt for taxes due to any other municipality.

Division 3

Business taxation

223 Definitions

In this Division,

(a) "***business***" means any activity or undertaking of a commercial,

merchandising or industrial nature and includes a trade, profession, occupation, employment or calling and the providing of goods and services and includes an association or cooperative of persons involved in such activity or undertaking not necessarily profit motivated;

(b) "*floor space*" means the superficial area of every floor in the building in which business is carried on, and includes the superficial area of any land not forming the site of a building but occupied and used for the purpose of or incidental to the exercise or carrying on of a business;

(c) "*premises*" means the store, office, warehouse, factory, building, enclosure, yard or any space occupied or used by a person for the purposes of a business.

NOTE TO READER: The definition of "business" in the context of both business licensing and business taxation has not been settled.

224 Business tax bylaw

(1) A council by bylaw may

(a) provide for the grouping of businesses into classes,

(b) provide for the assessment of any class or classes of business

(i) at a sum equal to the gross annual rental value of the premises occupied or rented for the purposes of the business,

(ii) on the basis of the total available storage capacity of the premises used for the purposes of a business of storage of goods or materials, or

(iii) on the basis of a percentage of the assessment of land and improvements made for purposes of property taxation under Division 2.

(c) prescribe

(i) the rate per unit of floor space,

(ii) the rate per unit of storage capacity,

(iii) the percentage to be applied to the assessment made for purposes of property taxation under Division 2 to be used for the purpose of business assessment,

(d) specify

(i) the percentage of value prescribed in clause (c) which is the business tax payable in respect of any business assessed, or

(ii) different rates for different classes of business.

(2) When machinery, equipment, appliances or other things used in the conduct of a business are taxed pursuant to Division 2, the portion of the premises in or on which those things are located must not be assessed under this Division.

(3) When more than one class of business is conducted on the same premises the business tax must be levied in accordance with the area occupied by each class of business.

(4) When a tenant who is liable to business assessment sublets all or any portion of a premises leased by the tenant, the assessor, in his discretion, may assess either the tenant or the sub-tenant in respect of the premises or the portion of the premises sublet.

(5) When products are sold wholesale or retail by the manufacturer of the products in the municipality, the manufacturer may be taxed at the rate applicable to wholesalers or retailers as the case may be.

(6) The occupant of any premises liable to assessment under this section is liable for the business tax even though the person may also be the owner of the premises and liable to taxation under Division 2.

(7) When business taxes are in arrears, a municipality may levy the taxes with costs by distress

(a) on the goods or chattels of the person taxed that are used in connection with the business wherever it is located or operating in Alberta,

(b) on the interest of the person taxed in any goods to the possession of which the person is entitled under a contract for purchase or a contract by which the person may or is to become the owner on the performance of any condition,

(c) on the goods and chattels in the possession of the person taxed when title to them is claimed

(i) by virtue of execution against the person taxed,

(ii) by purchase, gift, transfer or assignment from the person taxed, whether absolute or in trust or by way of mortgage or otherwise, or

(iii) by the spouse, child or daughter-in-law or son-in-law of the person taxed or by any other relative of the person if the relative lives with the person taxed or assists in the business of the person,

or

(d) on the goods and chattels or interest in them, as the case may be, falling within any of the classes mentioned in the foregoing clauses, of any person who occupies the premises in respect of which the business tax was levied, as purchaser of the business theretofore carried on therein by the person taxed, and

the business taxes are a first charge thereon and have priority over any other lien or claim thereto.

225 Annual assessment of businesses

(1) A council must, in every year before the expiration of the time provided for in the business tax bylaw, provide for the assessment of all businesses that are by virtue of the bylaw liable to business assessment and taxation at the rates specified in the bylaw.

(2) A council may provide for the assessment to be made by an assessor or may provide for a system of self-assessment by the businesses on the terms prescribed by council.

(3) The assessment for business tax is in addition to the assessment made for purposes of property taxation under Division 2.

(4) A designated official must enter on the business assessment roll

(a) the name and address of every person carrying on an assessable business within the municipality,

(b) the place where the assessable business is carried on, and

(c) the assessed value of the business under this Division.

226 Business assessment and business tax rolls

(1) The business assessment and business tax rolls may be

(a) separate and distinct from, or

(b) attached to

the assessment and tax rolls of the municipality.

(2) The provisions regarding

(a) preparation and inspection of the assessment roll apply to the business assessment roll except that the business assessment roll may be made, reported on and returned by the assessor at

different times from those fixed with respect to the assessment roll,

(b) mailing of assessment notices, complaints as to assessments, the right of appeal from assessment apply with all necessary modifications to business assessments and

(c) preparation of a tax roll, mailing of tax notices and the collection of taxes apply with all necessary modifications to business taxes.

227 Business tax proratable

(1) An assessable business is taxable for business tax for those months during the year in which the business is carried on, a portion of a month being taken as a full month.

(2) A business tax notice must indicate the amount of business tax payable for the year and upon written application by the person liable to taxation on or before December 31 of the year in which the business tax was levied, the designated official shall cancel or refund the portion of the business tax which is in proportion to the number of months of that year during which the business was not taxable.

(3) The council may direct the designated official to reduce the amount of any business tax payable by the amount of any license fee paid to the municipality in respect of the taxable business.

228 Supplementary business tax and special license fees

(1) A council by bylaw may impose a supplementary business assessment and tax or a special license fee, or both, on each person

(a) who carries on any business for a temporary period or commences business after the final revision of the business assessment roll and whose name is not entered on the roll,

(b) moving into new premises or opening new premises or branches of an existing business after the final revision of the business assessment roll, notwithstanding the person's name is entered on that roll, or

(c) who commences business before the final revision of the business assessment roll, but whose name is omitted from that roll.

(2) A council may also impose a special license fee on all persons as soon as they commence to carry on any business in the municipality which must be set off against any business tax that may be payable by that person during the year or against the supplementary business tax or the special license fee imposed by subsection (1), as the case may be.

(3) The special license fees under this section may be in the nature of a tax for general purposes.

(4) No person who is assessed in respect of any business or special franchise is liable to pay a special license fee in respect of the same business or special franchise except as provided by this section.

Division 4

Local improvement taxes

229 Local improvements

(1) A local improvement is a project which in the opinion of the council is of greater benefit to the area in which it is undertaken than it is to the whole municipality.

(2) A council may authorize a project to be undertaken as a local improvement and levy local improvement taxes in accordance with this Division.

(3) The cost of a local improvement includes

(a) the actual cost of the acquisition of land necessary for it,

(b) the actual cost of the capital work,

(c) any expenses of engineering, surveying, advertising, issuing debentures, and

(d) other expenses incidental to completing the work and raising the money to pay for it.

230 Initiation of local improvement

(1) A council may undertake a local improvement

(a) on receipt of a petition for a local improvement signed by at least 2/3 of the persons registered or assessed as owners and representing at least 1/2 in value of the assessment of the land, excluding improvements on it, of

(i) land abutting on that part of the street or place on which or in which the local improvement is to be made, or

(ii) land in the vicinity to be benefitted by the local improvement, or

(b) on its own motion after giving notice to each person referred to in clause (a), unless a majority of those persons representing at least 1/2 in value of the assessment of the land petition the council against the local improvement within 21 days from the date of the last delivery or mailing of the notice.

(2) A notice under subsection (1)(b) shall be delivered or mailed to the mailing address shown on the assessment roll of each person referred to in that subsection and must contain

(a) a description of the nature and location of the local improvement,

(b) the period over which the cost of the local improvement will be spread,

(c) the estimated cost of the local improvement,

(d) the portion of the estimated cost to be borne by the municipality at large, if any,

(e) the portion of the estimated cost to be provided by local improvement taxation and the rate of the local improvement tax to be levied, and

(f) the procedure for filing a petition against the local improvement.

(3) If a local improvement is initiated by a petition the council may

(a) undertake the local improvement at any time during the 3 years immediately following the date of the filing of the petition, and

(b) undertake part of the local improvement if the petition is sufficiently signed regarding that part.

(4) If a local improvement is initiated by a motion of the council and a sufficient petition against it is received, no further notice with respect to the same local improvement may be given within the same calendar year.

(5) If a local improvement is initiated by council on its own initiative and a sufficient petition against it is not received, the council may undertake the local improvement at any time within 3 years of the date of the notice.

(6) If a local improvement is initiated by council on its own initiative and a sufficient petition against it is received, the council may apply to

the Local Authorities Board for an order authorizing it to undertake the local improvement and levy local improvement taxes in respect of it if in the opinion of at least 2/3 of all of the members of the council the work is necessary or required in the general interest of area in which it is to be situated.

(7) Notwithstanding subsection (1), if the council by a 2/3 majority vote of all of the members declares that any

(a) water or sewer construction in a newly developing area of the municipality,

(b) roads or public places subject to the direction, management and control of a council,

(c) approaches, grades, sidewalks,

other works on, in or under any of the above done by the municipality or by another person with permission of the municipality, but not anything described above done by

(d) someone other than the municipality, or

(e) someone other than a person authorized by the municipality,

unless the work or thing has been assumed by the council for public use.

231 Signing of petitions

(1) If a corporation, church or other organization or an estate is entitled to sign a petition under this Division, the petition may be signed on its behalf by a person who

(a) is its representative,

(b) is at least 18 years old, and

(c) has and produces on request a certificate

(i) from the head office or the principal office in Alberta of a corporation,

(ii) from the local governing body of a church or other organization,

(iii) from the executor or administrator of the estate

authorizing the person as a representative.

(2) If a municipality, school division, school district or hospital district is entitled to sign a petition under this Division, that local authority may withdraw its right to sign the petition by providing notice to the council

(a) at the time the petition is presented to the council, or

(b) within 14 days of the last delivery or mailing of the notice notifying persons that a local improvement will proceed unless a petition is received,

and its name and the value of its land must not be counted in determining the sufficiency of the petition.

(3) A withdrawal under subsection (2) does not relieve the local authority from the liability for payment of local improvement taxes.

232 Levy of local improvement taxes

(1) The council by bylaw must levy local improvement taxes at a uniform and equal unit of measure or per unit of area of parcels or per parcel affected except that the rate may be greater or less on one side, or a part thereof, of the street or place whereon or wherein the local improvement is undertaken or the tax may be levied on one side only.

(2) The amount to be levied against any parcel of land as a local improvement tax must be the same proportion of the cost of the local improvement as that parcel is of the total

(a) units of measure,

(b) area, or

(c) number of all parcels

of land affected except that if any of the parcels appear to call for a larger or smaller proportionate share on account of being corner lots or by reason of their size or shape, those exceptional parcels may be determined to have a larger or smaller number of feet or area than they actually have in order to achieve a fair, just and equitable sharing of the cost of the local improvement.

(3) The amount so levied must be spread over the period of time which the council determines, not exceeding the probable lifetime of the local improvement, and is payable in equal instalments during each of the years of the period.

(4) The owner of any parcel so taxed may at any time pay the outstanding balance of the local improvement tax and when the person does so the remaining instalments are cancelled.

(5) Each annual instalment must be entered on the tax roll for the year in which it is payable in the same manner, collectible by the same methods, and subject to the same penalties in case of default of payment, as property taxes levied under Division 2.

(6) A local improvement may be undertaken and the necessary bylaws passed and debentures issued either before or after the cost of it has been finally determined unless the petition or notice in respect of it specifically provides that the cost be first ascertained, but when a local improvement has been authorized and

(a) has not been constructed or installed, or

(b) has been partially constructed or installed,

the local improvement tax may be collected for 1 year after which it must be suspended and deferred until the local improvement has been installed, constructed or completed, as the case may be.

(7) If in any case the first levy of a local improvement tax proves invalid a bylaw may be passed authorizing a new levy to be made until sufficient money has been realized to pay for the local improvement.

(8) Instead of the calculation set out in subsection (2), the council by bylaw may fix a uniform rate based on estimated average costs throughout the municipality for any type of work undertaken as a local improvement and that rate applies whether the actual cost of any work was greater or lesser than the uniform rate.

233 Exemptions from a local improvement tax

(1) If a sanitary or storm sewer or water main is constructed along a street or place

(a) along which it would not have been constructed except to reach some other area of the municipality, or

(b) in order to provide capacity for future development,

and the existing sanitary and storm sewers and water mains are sufficient for the existing development in the area, the parcels of land abutting on the street or place are exempt from the payment of any local improvement tax in respect thereof until such time as the land is served by the sanitary or storm sewer or water main at which time the levy may be imposed at the rates originally set out for the local improvement.

(2) If the sanitary or storm sewer or water main replaces an existing facility and the parcels are connected to it for that reason, the exemption may be for the total amount of the local improvement tax or for that portion which in the opinion of the council is fair, just and

equitable.

(3) If a local improvement tax is being levied for the sanitary or storm sewer or water main which the facility replaces,

(a) that tax shall be suspended and the outstanding balance may be added to the cost of the new facility, or

(b) the parcels against which the existing tax is levied are exempt from the tax for the new facility.

(4) A local improvement tax must not be levied on any parcel in any year with respect to more than one sanitary sewer, one storm sewer and one water main.

234 Portion of local improvement payable by municipality

(1) A council by bylaw passed by a 2/3 majority of the whole council may provide that the municipality pay that part of the cost of a local improvement which the council considers to be of benefit to the whole municipality.

(2) If financial assistance is provided by Canada or Alberta to the municipality for the undertaking of a local improvement, the council must apply the assistance towards the cost of the local improvement.

(3) The cost of a local improvement must be reduced by the amounts described in subsections (1) and (2) for purposes of calculating the local improvement tax rate.

235 Notice of local improvement tax

Notice of a proposed charge for a local improvement tax must be mailed to each registered owner of a parcel of land to be charged or published in a newspaper or other publication circulating in the municipality for 3 consecutive weeks.

236 Gift of land

(1) If the undertaking of a local improvement requires the acquisition of land, the council may agree with the owner that in consideration of the dedication or gift of the land required or a release of or reduction in the owner's claim for compensation, the remainder of the land is exempt from all or part of the local improvement tax that would otherwise be levied in respect of the work.

(2) The local improvement tax roll must be prepared in conformity with an agreement under this section despite anything to the contrary in this Act.

237 Variation of local improvement tax

(1) If there is a

(a) change of the plan or subdivision affecting a parcel of land, or

(b) a division of a parcel of land on which a local improvement tax is levied on a smaller or larger proportionate basis under section 232(2),

the council, with respect to future years, must revise the local improvement tax so that each of the new parcels of land will bear a fair, just and equitable proportion of the levy.

(2) If there is a change in a plan of subdivision affecting an area which had not previously been subject to the levy for a local improvement and the council is of the opinion that as a result of the change the new parcels do receive a benefit from the local improvement, the council, with respect to future years, may revise the local improvement tax and apply the revised rate to both the existing and new parcels so that each benefitting parcel will bear a fair, just and equitable proportion of the levy.

(3) If, after the local improvement tax rate has been set, the council

(a) receives financial assistance from Canada or Alberta greater than, or

(b) refinances the debt created to pay for the local improvement at an interest rate lower than

the sum that had been anticipated when the rate was set, the council, with respect to future years, may revise the rate so that each levy will impose a fair, just and equitable share of the actual costs on the benefitting parcels.

(4) If, after the local improvement tax rate has been set, an alteration is made, following an appeal under this Division, to the unit of measure or units of area subject to the tax sufficient to reduce or increase the proceeds of the tax in any year by more than 5%, the council, with respect to future years, may revise the rate so that the levy will produce the revenues originally anticipated for those years.

(5) A revision under this section must be made by bylaw and be levied and collected as if it had been levied against the parcels in the original bylaw.

238 Local improvement tax roll

(1) Local improvement taxation is in addition to any taxation under Divisions 2 and 3.

(2) A local improvement tax roll must be maintained by the municipality which may be

(a) separate and distinct from, or

(b) attached to and forming part of,

the tax roll of the municipality.

(3) Section 209(2) applies to the preparation of the local improvement tax roll with all necessary modifications.

(4) Any land which is exempt from local improvement taxation under any general or special Act shall nevertheless be included for purposes of calculations under this Division and the local improvement taxes to which it would be subject must be paid by the municipality unless the owner agrees to pay them.

239 Appeals

(1) The owner of a parcel may request the designated official to review the number of lineal feet or of units of area which have been attributed to the parcel and the designated official, if satisfied that an error has been made may correct the local improvement tax roll at any time.

(2) The owner of any parcel which is subject to a local improvement tax may appeal the number of lineal feet or of units of area which have been attributed to the parcel in the same manner and by the same procedure as nearly as possible as in the case of a complaint or an appeal from an assessment made under the (proposed) *Real Property Assessment Act*.

(3) A complaint and an appeal under this section may be made only in the first year in which the local improvement tax is levied and not thereafter.

(4) When on request to the designated official, complaint to the court of revision or appeal to the Assessment Appeal Board the number of lineal feet or units of area is altered, the number so altered must be substituted for the original number in the local improvement tax roll and the local improvement tax bylaw is deemed to have been amended by that alteration.

(5) An alteration under this section does not entitle the owner to a refund of any amounts paid prior to the year in which the alteration is made but the council, may refund any portion of those amounts.

(6) The amount by which the local improvement tax payable by any owner is reduced by an alteration under this section shall be paid by

the municipality unless the rate is otherwise revised.

Division 5

Borrowing

240 General Borrowing Powers

(1) Subject to this Act and the *Local Authorities Board Act* a council by bylaw may authorize the borrowing of money for any purpose within the jurisdiction of the municipality and may issue treasury bills, promissory notes, temporary debentures, debentures or similar forms of obligation.

(2) No money borrowed for capital expenditure or in the hands of the municipality for capital purposes can be applied towards operating expenditures except that it may be temporarily used for operating purposes until it is required for the purpose for which it was borrowed.

(3) A person lending money to a municipality is not bound to establish the necessity for the borrowing nor to see that it is expended for the purpose for which it is borrowed.

(4) Any unexpended balance of a debenture may be used for any other capital expenditures with the approval of the Local Authorities Board.

241 Temporary Borrowing

(1) When a borrowing is authorized to meet the current operating expenditures of the municipality, the total amount authorized at any one time must not exceed the amount of taxes levied or estimated to be levied for the current year.

(2) When a borrowing is authorized to provide for the temporary financing of any capital project at any time prior to the issuance of all

or any part of the debentures therefor

(a) the term shall not exceed 3 years, and

(b) the total amount outstanding at any one time shall not exceed the amount of the capital budget for that year and any prior year for which debentures have not yet been issued after deducting there from any revenue accruing to the program by way of grants or any other contributions.

242 Approval of the Local Authorities Board

(1) Except as provided in this or any other Act, a bylaw which authorizes a borrowing which is not repayable in the current year

(a) must be advertised, and

(b) requires the approval of the Local Authorities Board before any borrowing may be made.

(2) If a bylaw has been finally passed under subsection (1) and

(a) because of an increase in the cost of the project for which the debt is to be incurred, as determined by public tender or otherwise, the authorized borrowing in the bylaw is insufficient to finance the project, and

(b) there is no increase in the standards, plans, specifications or size of the project,

with the approval of the Local Authorities Board the council may amend the bylaw by increasing the authorized borrowing to an amount sufficient to finance the project and the amendment does not have to be advertised.

(3) A bylaw to borrow money for

(a) the construction of any work ordered under the authority of

any statute by Canada or Alberta, or

(b) to pay any deficiency in a sinking fund account

does not have to be advertised.

(4) A bylaw to borrow money to meet the whole or any part of the costs or estimated costs of any local improvement

(a) must provide that the borrowing be repaid within the probable lifetime of the local improvement, and

(b) does not have to be advertised unless the share of the cost or estimated cost to be borne by the municipality at large is greater than 50% of cost or estimated cost of the local improvement.

(5) A council may borrow the cost of any capital project approved in the capital budget if

(a) the borrowing is to be paid within 3 years,

(b) the yearly payments of principal and interest do not exceed 10% of the previous year's revenues under Division 2, and

(c) the aggregate of all payments for borrowing under this subsection do not exceed 30% of the previous year's revenues as described in the operating budget.

(6) When a municipality has entered into an agreement with any other local authority, the Government of Alberta, the Government of Canada or their agencies, the council may borrow any amounts required to finance the service or activity pending the receipt of payment but

(a) the aggregate of the amounts borrowed must not exceed the total amount that Canada or Alberta will contribute under the agreement,

(b) payments received must be applied first to the reduction of the borrowing, and

(c) the term of the borrowing must not continue beyond the date on which the final payment under the agreement is received.

(7) When a borrowing is authorized under this section to finance the operations of a public utility, the borrowing must not exceed the total amount of accounts owing to the municipality with respect to that utility including any government grants.

(8) When defraying the municipality's portion of the cost for construction of a highway under the *Public Highways Development Act* a municipality, out of its yearly revenues, may pay the amount in not more than 15 yearly instalments without the issue of debentures.

(9) A borrowing for any of the purposes described in this section does not require the approval of the Local Authorities Board and the bylaw need not be advertised.

(10) A bylaw to borrow money for the extension, rehabilitation, re-equipment or improvement of an existing capital work or equipment

(a) may include the cost of acquisition of any necessary land,

(b) may include the replacement of a public road, street, bridge, highway, pedestrian mall, alley, or other public place that is subject to the direction, management and control of the council including all crossings, sewers, culverts and approaches, grades, sidewalks and other works made or done therein or thereon by the municipality or any other person with the permission of the municipality but does not include any such facility made or laid out by a private person until it has been assumed for public use by the municipality, and

(c) does not need to be advertised,

and the Local Authorities Board may determine whether the borrowing is for the purposes named in this subsection.

(11) A bylaw passed to approve an agreement to lend money to or guarantee all or part of the debt of any non profit organization for the acquisition or construction of a facility that the council considers to be of benefit to the municipality is subject to this section if the term of the debt of the non-profit organization is more than 3 years.

(12) A bylaw to borrow money for the purpose of purchasing or redeeming the whole or any part of the outstanding debentures of the municipality in advance of maturity does not need to be advertised.

(13) Except as otherwise provided by this Act a bylaw referred to in this section must provide for the borrowing to be payable within a period of not more than 50 years from the date of issue and

(a) the levying of annual rates, or

(b) the lien as a first charge on them of the gross sales or rental values of

(i) any land or building acquired, or

(ii) any public utility in respect of which the borrowing is to be made,

and for the levy of rates to meet any amount by which the gross sales or rental revenues are not sufficient in any year for the repayment of the debt, and

(c) may be referred to as a debenture bylaw.

(14) A bylaw approved by the Local Authorities Board and any debenture that may be issued in conformity with it is valid and binding on the municipality and on the property liable to any rate imposed in connection with it, and the validity of the bylaw and the debentures is not thereafter open to question in any court.

Division 6

Debenture bylaws

243 Requirements of debenture bylaw

(1) A debenture bylaw must recite

(a) the amount of the debt to be created and, in general terms, the object for which it is created,

(b) the term of the debt and the amount of the annual instalments to be paid,

(c) the maximum rate of interest in figures or by reference to the rate fixed from time to time by the Alberta Municipal Financing Corporation and whether it is to be paid annually or semi-annually,

(d) the amount of the existing debenture debt of the municipality and whether any of the principal or interest is in arrears,

(e) the amount of the latest total equalized assessment of the municipality as determined by the Alberta Assessment Equalization Board,

(f) whether any required consent, approval or permit of any Minister has been issued, and

(g) any other information that may be required by the Local Authorities Board.

(2) A debenture bylaw must

(a) authorize the issue of debentures for the amount of the debt to be created,

(b) determine the denomination of the debentures either in

numbers or by referring to denominations determined from time to time by a designated official,

(c) name the places where and time when the principal and interest are payable,

(d) state the method by which the principal and interest are to be repaid, and

(e) generally be in a form and contain any further provisions the Local Authorities Board requires.

(3) In the case of a local improvement debenture bylaw, the bylaw

(a) must state the portion payable by local improvement taxation and the portion payable by the municipality from general revenues and for that purpose the council may pass one or more separate bylaws,

(b) must provide that

(i) if in any year the amount realized from the local improvement tax is insufficient to pay the owners' portion of the principal and interest due in that year, the council will pay the deficiency from the general revenues of the municipality but

(ii) payment does not relieve the land taxed under the bylaw from the local improvement tax, or persons liable to pay,

(c) may provide for a different interest rate on the debentures than was used in the calculation of the estimated cost of the type of local improvement for the purpose of fixing a uniform rate, and

(d) may authorize the use of reserve or other funds of the municipality to pay the cost of a local improvement instead of issuing debentures, and may impose interest charges in the

same manner as if the funds were borrowed under a debenture.

(4) A debenture bylaw may provide that all or any part of the debentures authorized thereby will be redeemable at the option of the municipality at any time or at the time or times in advance of the maturity that may be specified in the bylaw and the bylaw must specify

(a) the place of redemption,

(b) that notice of intention to redeem will be given at least 30 days prior to the date wet for redemption in the manner specified in the bylaw and endorsed on every such debenture,

(c) the price or prices at which the debentures may be so redeemed including any premium or premiums on redemption as may be specified in the bylaw,

(d) that if only a portion of the debentures is to be redeemed at any time, debentures having earlier maturity dates will be redeemed before debentures having later maturity dates and in the case of all the debentures having the same date the debentures to be redeemed will be determined by lot, and

(e) any other conditions that the Local Authorities Board may require

and the council or a designated official may subsequently exercise the option to redeem any or all of those debentures.

(5) A debenture bylaw may provide that the debentures and coupons are payable at any place or places in Canada or in any other country and may be payable in lawful money of Canada or of the place or country where they are made payable and a bylaw authorizing the issue of debentures for a certain amount with interest in lawful money of Canada authorizes the issue of the debentures or any of them in a like amount of the lawful money of another place or country.

(6) A debenture bylaw may provide that if an outstanding debenture becomes mutilated or destroyed or stolen or lost, a new debenture of like tenor and effect may be issued in replacement of that debenture on any terms and conditions the bylaw provides.

244 Amendment of debenture bylaws

(1) A council may only amend a debenture bylaw with the approval of the Local Authorities Board but the amendment must not

(a) extend the maturity date of the original debenture, or

(b) increase the amount of principal owing in excess of the amount remaining owing on the original debentures.

(2) When any debentures issued under a bylaw have been sold, pledged or hypothecated, the council may on the municipality again acquiring one of those debentures or on the request of the holder of one of those debentures, cancel the debenture and issue one or more debentures in substitution for it having the same aggregate principal amount as the principal amount of the cancelled debenture and having the same interest rate and same maturity date as the cancelled debenture.

(3) A bylaw under subsection (1) does not have to be advertised.

245 Consolidation of debenture bylaws

(1) A municipality may only consolidate the amount or part of the amount authorized under 2 or more debenture bylaws if the interest rates and term of years stated in the bylaws are the same.

(2) A municipality may only consolidate other debenture bylaws with the approval of the Local Authorities Board.

(3) A bylaw under this section does not have to be advertised.

246 Retractable and extendable debentures

(1) When the council of a municipality with a population in excess of 40,000 persons has passed a bylaw under section 245, notwithstanding anything in this Part the council may pass bylaws

(a) governing the issue of debentures in an amount or amounts not exceeding in aggregate the amount prescribed in the bylaw authorizing debenture borrowing,

(b) governing the method of repaying at maturity or renewing at maturity or redeeming prior to maturity the whole or any part of the outstanding debentures or other securities of the municipality notwithstanding that those debentures were issued before or after the coming into force of this section,

(c) authorizing the issue of a temporary or global debenture in any form and in any denomination or denominations that may be appropriate which shall be valid and binding on the municipality and providing the manner in which any such debenture shall be exchangeable for one or more definitive debentures of an equal aggregate principal amount payable on the same date and bearing the same rate of interest, or

(d) providing that the term of any debenture issued under this section may be made

(i) retractable at the option of the holder thereof to a date or dates prior to, or

(ii) extendible at the option of the holder thereof at the same or a different rate of interest to a date subsequent to the stated maturity date,

on notice given to the designated official in the manner provided for in the debenture.

(2) Every bylaw under this section shall provide for raising sufficient money in lawful money of Canada in each year during the currency

of the debentures as may be required to pay annually

(a) the interest on the debentures,

(b) any principal amount of the debt falling due in the year to the extent that no sinking fund is available for that purpose,

(c) in the case of sinking fund debentures, a specific amount which, with a projected rate of earnings compounded annually, will be sufficient to pay the principal of the debentures at maturity,

and to the extent that sufficient money is not available from

(d) its other sources of revenue, or

(e) the issue and sale of further debentures to refund the principal of any debentures falling due in the year

shall provide for the levy of a tax under Division 2.

(3) Any bylaw authorizing the issue of new debentures to refund retractable debentures at an early redemption date or to refund extendable debentures at their extended maturity date shall provide for the raising of sufficient money to pay the principal and interest of the new debentures in the same manner pursuant to subsection (2) as for the debentures that are being refunded.

(4) With the prior approval of the Local Authorities Board a bylaw under this section may be given three readings and finally passed at the same meeting of the council by a 2/3 majority of all of the members of the council.

(5) A bylaw under this section

(a) shall contain any information required by the Local Authorities Board,

(b) is subject to the approval of the Local Authorities Board which

may be given before or after it is finally passed, and

(c) does not need to be advertised.

247 Debenture form and content

(1) Any debenture under this Act may be

(a) in a form, and

(b) made payable in any manner

that is approved by the Local Authorities Board.

(2) When a series of debentures is issued at the same time, each of the series shall be distinguished by a mark or symbol different from the mark or symbol appearing on the other debentures of the same issue and the mark or symbol shall also prepare on the coupons, if any.

(3) A debenture shall be sealed with the seal of the municipality and signed by the chief elected officer or a designated official authorized by bylaw to sign and every coupon attached to debentures shall bear the same signature.

(4) On request of the council the Local Authorities Board, may countersign any debenture.

(5) On any debenture

(a) the seal,

(b) the signature, and

(c) the countersignature of the Local Authorities Board

may be reproduced by any method of mechanical reproduction and when so reproduced has the same effect as if it had been annually affixed or signed.

(6) The seal and the signature shall be the seal of the municipality and the signature of the person authorized to sign on the date it is affixed, notwithstanding any change in the seal or the person authorized between the time when they are affixed and the date of the delivery of the debentures.

(7) Every debenture issued shall have written, printed or stamped thereon a memorandum containing the particulars noted in the Debenture Register and any other information in a form approved by the Local Authorities Board.

(8) No debenture shall be issued after the expiration of 6 years from the date of final passing of the bylaw authorizing the issue.

248 Validity of debentures

(1) Any debenture issued under a borrowing bylaw is valid and binding on the municipality notwithstanding any deficiency in form or substance or otherwise of the bylaw or of the authority of the municipality in respect thereof, if

(a) the bylaw has received the assent of the electors when such assent is required,

(b) no application has been made to quash the bylaw within 2 months after its final passing, and

(c) the bylaw has received the approval of the Local Authorities Board when it is required.

(2) The countersigning of a debenture by the Local Authorities Board is conclusive proof of the validity of the debentures and their validity is not open to question in any court.

(3) Any debenture issued in respect of a local improvement is not invalidated by reason of any defect or omission in the proceedings relating to the authorization, undertaking or construction of the work or the levying of the local improvement tax related thereto.

(4) If the interest for one year or more on the debentures issued under a bylaw or the principal of any debenture that has matured has been paid by the municipality, the bylaw and the debentures issued under it are valid and binding on the municipality and are not open to question in any court even if the required assent of the electors has not been obtained.

249 Debenture register

(1) The municipality must keep a record known as the "Debenture Register".

(2) Particulars of every bylaw authorizing the issue of debentures, and of all debentures issued under them, must be entered in the Debenture Register.

250 Certificate of ownership

(1) A certificate signed by a designated officer is prima facie proof of the registration of a debenture in the Debenture Register and may be referred to as a "certificate of ownership".

(2) The designated officer must enter in the Debenture Register a copy of

(a) certificates of ownership, and

(b) transfer of ownership certificates.

(3) Every debenture registered in the Debenture Register is valid and binding in the hands of the municipality or of any bona fide purchaser for value notwithstanding any defect in form or substance.

(4) Any debenture may provide that a transfer of ownership will not be registered in the Debenture Register until written authority has been received from

(a) an unregistered holder in the case of a bearer debenture, or

(b) the person last entered in the Register as the owner of the debenture or from his executor, administrator or attorney

and upon receipt of the written authority the debenture shall be transferred

(c) by entry in the Register, and

(d) by issue of a transfer of ownership certificate by the designated official.

(5) When the signature on the written authority is guaranteed by

(a) a bank, treasury branch or credit union,

(b) a member of the Investment Dealers' Association of Canada,

(c) a notary public, or

(d) any other guarantor

who may be authorized by bylaw approved by the Local Authorities Board neither the designated official nor the municipality incurs liability to the true owner for any loss caused by the transfer in case the written authority was not signed by him.

(6) If any interest coupons are detached from a debenture, the coupons are transferable by delivery.

251 Debenture accounts

A municipality must keep separate accounts of every debt for

(a) the interest, and

(b) the sinking fund or instalments of principal

distinguished from all other accounts in a manner which demonstrates

(c) the purpose for which the debt was created, and

(d) the state of every debt.

252 Sinking fund

(1) If a sinking fund is to be used to redeem outstanding debentures the designated official shall maintain a separate account in the bank, treasury branch or credit union designated by the council to be known as the "Sinking Fund Account of the (name of municipality)" and shall deposit in the account all

(a) money levied and collected for the purposes of a sinking fund,

(b) proceeds of debentures issued to pay a deficiency in a sinking fund, and

(c) any other money that the council directs to be credited to the sinking fund.

(2) When the sinking fund has excess earnings or is no longer required the council, by bylaw, may authorize use of the funds for some other purpose.

(3) A bylaw under this section must be advertised.

253 Sharing grants in place of taxes

(1) A municipality may agree with

(a) any other municipality, or

(b) school district designated under Part 6, Division 5 of the *School Act*,

to share municipal taxes or grants in lieu of taxes paid by the Crown in right of Alberta or an agency of either of them.

(2) The agreement must include a means to settle disputes arising from the agreement.

254 Levy for weather modification services

(1) The expenses incurred under the agreement for weather modification services shall be met by the levy and collection of a mill rate tax on the physical land liable to assessment and taxation in that part or parts of the rural municipality covered by the agreement.

(2) The rates shall be levied as a special tax in addition to and together with the rate authorized for ordinary municipal purposes.

255 Public works in a hamlet

(1) A council of a rural municipality shall in each year cause at least 50% of the taxes collected for municipal purposes in the previous year in a hamlet to be expended on public works within the hamlet if a petition to that effect and signed by a majority of the owners, conditional owners and purchasers of land in the hamlet is filed with the municipal secretary before March 1, but if the petition is received by the council after March 1 the council may postpone the expenditure of those sums until the following year.

(2) A council by agreement with the petitioners may postpone the expenditure of the money until an agreed on time when a fund has been accumulated to undertake a public work of major proportions.

(3) A council may establish for a hamlet a hamlet advisory board and may provide for appointment of members using the provisions of the *Local Authorities Election Act* as they are modified by the Minister.

(4) In this section

(a) "***hamlet***" means an unincorporated community consisting of a group of 10 or more occupied dwellings, a majority of which are situated on parcels of less than 1850 square metres, with a defined boundary, a distinct name and the existence of or provision for non-residential uses, that is designated as a hamlet by the municipal authority of the rural municipality in which it is located or by the Minister, and includes any hamlet designated by a council or the Minister before the coming into force of this Act;

(b) "***public works***" includes any municipal purpose.

Division 7

Annual financial statements and auditor's report

256 Annual financial statement

(1) Every municipality must prepare an annual statement of the financial transactions of the municipality for the immediately preceding calendar year in accordance with

(a) the generally accepted accounting principles for municipal governments established by the Canadian Institute of Chartered Accountants, and

(b) any modified or supplementary accounting standards or principles established by the Minister by regulation.

(2) The annual statement of financial transactions must be in the form prescribed by the Minister in regulations.

(3) The annual statement must be sent to the Minister, with the auditor's report on the statement, by

(a) July 1 for a city;

(b) July 1 for other municipalities having a population of more than 25,000;

(c) March 15 for other municipalities.

(4) The annual statement, or a synopsis of it, must be published or made available to the public in a manner decided by the council.

257 Auditors

Every council must appoint one or more external auditors of the municipality.

258 Access to information

(1) An auditor appointed by the council is entitled to access at all reasonable times

(a) to the records of the municipality, and

(b) electronic data processing equipment owned or leased by the municipality,

for any purpose related to the audit.

(2) A councillor, official, employee, agent of, or consultant to, a municipality, must give the auditor any information, reports, or explanations the auditor considers necessary.

(3) An auditor who receives information from a person whose right to disclose that information is restricted by law holds that information under the same restrictions respecting disclosure that govern the person from whom the information was obtained.

259 Auditors report

(1) The auditor must report to the council on the annual statement of the financial transactions of the municipality.

(2) The report must

(a) include a statement

(i) as to whether, in the auditor's opinion, the financial statements present fairly the financial position, results of operations and changes in financial position of the municipality in accordance with the disclosed auditing standards or principles, and

(ii) as to whether the financial statements present fairly the financial position of the municipality in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year,

(b) when the report contains a reservation of opinion by the auditor, state reasons for that reservation and indicate the effect of any deficiency on the financial statements,

(c) include any other comments related to the audit of the financial statements that is considered appropriate,

(d) state any case when information, reports and explanations required were not provided, and

(e) when appropriate and reasonable procedures could have been or were used to measure and report on the effectiveness of policies and programs, whether those procedures were either not established or not complied with.

(3) In addition, the Minister or the council may require any further examination and report from the auditor that is considered necessary.

PART 8

WHAT ELSE IS THERE TO SAY?

Division 1

Legal liability of municipalities

NOTE TO READER:

Three recent Supreme Court of Canada decisions have enlarged the potential legal liability of municipalities.

The Supreme Court, through its decisions, challenges legislators to rethink the reason for exempting municipalities from legal liability for their activities.

The development of the law on the liability of municipalities spans centuries of court decisions and legislation. In the early years in England the courts took the view that public officers doing public work should be protected from legal liability. Legislation gave additional protection, in part to promote industrial expansion, and in part to ensure the development of necessary public facilities which could have been impeded if municipalities were strictly liable for loss or damage from their activities.

For many years as the law developed loss or damage to individuals from public works for the general public good were seen to be an inevitable cost of progress.

In the last 50 years or so judicial views have changed. More and more often courts have been unwilling to exempt municipalities from the immunity on which they once could have relied.

The Supreme Court of Canada now challenges legislators with a fundamental question of social policy. The Supreme Court no longer sees it as appropriate to place municipalities in a preferential legal position. Nor does the Court see it as fair to make individuals bear the brunt of loss resulting from municipal policies.

The Supreme Court decisions suggest that society generally, not individuals, should bear the cost of municipal activities causing damage. Translated into real life

terms, the Supreme Court sees the cost of municipal actions being properly shared by the whole municipality (through payment of taxes or premiums on insurance policies).

It is true that the Supreme Court has said that if legislation specifically exempts a particular activity then that will be respected; but designing those sections to meet the range of interpretative techniques the courts could use to overcome them makes it likely to be a fruitless task.

Which brings us to the social questions:

(a) is it fair to give municipalities special exemption from legal liability? And if so, on what basis, and for what activities?

(b) should individuals have to bear the cost of damage caused by municipalities - or should that be borne by the municipality as a whole through tax or insurance premiums?

The Supreme Court of Canada properly challenges us to rethink social policy in a modern context.

The basic options are:

(a) Option 1 - omit from the Act all exemptions from liability except provisions which mitigate that liability, for example

(i) exempting municipal officers and employees (but not the municipality itself) from liability,

(ii) requiring the Court establish a structured settlement where damages of $250,000 or more are awarded, leaving the nature of structured settlements open ended so that they can be designed to meet the needs of particular cases.

This might be seen as a first response to the call by former Chief Justice Dickson for legislation to establish structured settlements.

This option would accept that it is no longer justifiable for individuals to bear the cost of municipal action - that cost, incurred for the public good, should

be shared amongst the public who benefit from municipal policies and programs;

(b) Option 2 - attempt to create a code of principles for the court to apply whenever a case involving municipal liability is to be decided.

This code might attempt to balance

(i) the responsibility of individuals to take reasonable care;

(ii) to impose reasonable (not strict) liability on municipalities for the results of their policies and programs;

(iii) to put municipalities in the same position as the Crown with respect to roads (eg. under the *Public Highways Development Act* sections 38-39);

(c) Option 3 - exempt municipalities from legal liability as far as possible, either generally or in respect of particular municipal activities;

Amend the *Contributory Negligence Act* to prevent municipalities from having to pay the whole of a judgment when they are only found partly to blame. If this is done, the *Tortfeasors Act* will need to be reviewed for possible consequential changes;

(d) Option 4 - a combination of these options or something more radical involving a loss compensation scheme to replace municipal legal liability.

On a related issue this draft does not contain a requirement that notice be given to a municipality if legal action is to be taken. (eg. sections 404-406 of the existing *Municipal Government Act*. Should notices like this be continued?)

For this draft we have omitted sections that would exempt municipalities from liability but included the "mitigation sections" referred to in option (1).

Your comments on this matter are requested.

Division 2

Liability of councillors and municipal officers

260 Definitions

In this Division

(a) "***municipal committee member***" means a member of a committee or other body established by council,

(b) "***municipal officer***" means

(i) the chief administrative officer and designated officers, and

(ii) employees of the municipality.

(c) "***volunteer worker***" means a volunteer member of a fire, ambulance or emergency measures organization established by a municipality, or other volunteer performing duties under direction of the municipality.

261 Protection from liability and exemptions

(1) Councillors, municipal committee members, municipal officers and volunteer workers are not liable for

(a) anything said or done in the performance or intended performance of their functions, duties or powers, or

(b) loss or damage from negligence in the performance or intended performance of their functions, duties or powers,

unless subsection (2) applies.

(2) Subsection (1) is not a defence if

(a) the cause of action is defamation, or

(b) if the person was dishonest, grossly negligent or guilty of wilful misconduct.

(3) This section does not affect the legal liability of the municipality.

262 Structured judgments

Unless otherwise agreed between a plaintiff and a defendant municipality

(a) an award of damages by judgement against a municipality in excess of $250,000 must be made payable by periodic payments,

(b) an award of costs to the plaintiff must be taxed on a scale that the court may direct, and

(c) an award of pre-judgement interest must be

(i) at a rate, and

(ii) awarded only for the period commencing with the date on which the plaintiff had sufficient information to assess the question of liability,

as directed by court.[43]

43 We are not yet sure of the need for (b) and (c).

Division 3

Offences and penalties

263 General offences

A person who

(a) contravenes any provision of this Act,

(b) contravenes a direction of the Minister under this or any other enactment,

(c) contravenes an order under section 138,

(d) obstructs or hinders a person in the exercise or performance of that person's powers or duties under this Act or bylaws,

is guilty of an offence.

264 Councillor's offences

A councillor who

(a) votes contrary to section 108 (councillors prohibited from certain votes),

(b) makes an agreement contrary to section 121 (certain agreements prohibited),

is guilty of an offence.

265 Offences applicable to officials

A chief administrative officer or designated officer

(a) who refuses, neglects or fails to discharge the duties of the office,

(b) who knowingly signs any statement, report or return required by this or any other enactment or bylaw that contains a false statement, or

(c) who refuses or neglects to hand over to a successor in office, or to the persons designated in writing by the council or the Minister, all money, books, papers and other property of a municipality,

is guilty of an offence.

266 Unauthorized use of heraldic emblems

A person is guilty of an offence who, without authority of council, assumes or uses

(a) the crest or coat of arms of a municipality,

(b) any other heraldic emblem of the municipality, or

(c) anything which closely resembles the crest or coat of arms or other heraldic emblem of a municipality

with the intention of deceiving others into thinking the person had authority to assume or use it.

267 Causing fires

A person who directly or indirectly,

(a) kindles a fire and lets it run at large,

(b) permits a fire to pass from that person's land, or

(c) allows a fire for which that person is responsible to run at large,

is guilty of an offence.

268 Hindering public works

A person who obstructs another in the construction, maintenance or repair of a public work or public utility is guilty of an offence.

269 Prosecution of business

In a prosecution for contravention of a bylaw against engaging in or operating a business without a license, proof of one transaction in the business is sufficient to establish that a person is engaged in or operates the business.

270 Time within which prosecutions must commence

A prosecution under this Act or a bylaw may be commenced within 2 years after the date of the alleged offence, but not afterwards.

271 Penalty

A person who is found guilty of an offence under this Act is liable to a fine of not more than $10,000 or to imprisonment for not more than 1 year, or both fine and imprisonment.

272 Order for compliance

If a person is found guilty of an offence under this Act or a bylaw the court may, in addition to any other penalty imposed, order the person to comply with this Act or a bylaw or a licence, permit or other authorization issued under the bylaw, or a condition of any of them.

273 Recovery of fines and penalties

(1) All fines, penalties and forfeitures under this Act may be recovered and enforced with costs on summary conviction, unless otherwise provided.

(2) All money accruing from fines or penalties under this Act or under a bylaw, belong to the municipality.

(3) Every penalty, fee, levy, rate or other charge imposed under a bylaw may, unless any other provision is specifically made in respect of it, be recovered and enforced with costs on summary conviction in the Provincial Court of Alberta.

274 Civil liability not affected

If a person is guilty of an offence under this Act that does not affect any civil liability for which the person may also be liable.

Division 4

Miscellaneous

275 Adverse possession of land

No person can acquire an estate or interest in land owned by a municipality by adverse or unauthorized possession, occupation, enjoyment or use of the land.

276 Lost or unclaimed property

(1) Lost or unclaimed property coming into the possession of a municipality must be retained for at least 45 days from the date it comes into possession of the municipality unless it is unsafe, unsanitary or perishable, in which case it may be disposed of at any

time

(2) If property is not claimed within 45 days it becomes the property of the municipality and the municipality may dispose of the property by public auction or as the council directs.

(3) The purchaser of lost or unclaimed property at an auction, or otherwise, becomes the absolute owner of it and any claim of a prior owner is converted into a claim for the proceeds of the sale, after all expenses incurred by the municipality in relation to that property have been deducted from the sale proceeds.

(4) If no claim is made on the sale proceeds within one year from the date of sale, the proceeds must be transferred to the general revenue account of the municipality.

277 Unclaimed utility deposits

(1) If money is deposited with a municipality as a guarantee deposit for the payment of account for a service or product remains unclaimed for 1 year after the depositor's account is discontinued, the amount of the deposit may be transferred to the general revenue account of the municipality.

(2) The municipality remains liable to repay the amount of the deposit to the person lawfully entitled to it for a period of 5 years following the discontinuance of the account but after the 5-year period the deposit becomes the property of the municipality free from any claim for it.

278 Regulations

(1) The Lieutenant Governor in Council may make regulations for any matter not provided for or insufficiently provided for in this Act but any regulation so made ceases to have any effect after the last day of the next ensuing session of the Legislature.

(2) The Minister may make regulations

(a) prescribing supplementary standards for annual financial statements of municipalities and modifications to generally accepted accounting principles of municipalities;

(b) prescribing the form of annual financial statements of municipalities;

(c) respecting limits on grants given by municipalities;

(d) respecting guarantees given by municipalities, the limits, form and nature of them and matters associated.

279 Ministerial directions for information

The Minister may direct a municipality to supply any statistical information and documents required by the Minister.

280 Altering dates

(1) When a date is fixed by this Act on which or by which

(a) certain things are to be done, or

(b) certain proceedings are to be taken,

and the day is a holiday, the things or proceedings must be done or taken on or by the next day after the day fixed that is not a holiday.

(2) When this Act fixes a certain number of days or a certain time

(a) by which something is to be done, or

(b) proceedings are to be taken,

and the thing is not done, the Minister may by order appoint a further time or another time for doing it.

(3) An order under subsection (2) may be made at any time before or after the time fixed by this Act for the doing of the thing and the time for doing any other thing which had been fixed in relation to that time is subject to a like delay.

(4) Anything done at or within the time specified in the order is as valid as if it had been done at or within the time fixed by or under this Act.

281 Rules of residence

(1) For purposes of this Act, the place of residence of a person is governed by the rules in the Local Authorities Election Act, as far as they are applicable.[44]

(2) If a person maintains 2 or more residences under the rules in the *Local Authorities Election Act* the person must elect which is to be that person's residence under this Act.

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44 The rules in the *Local Authorities Election Act* read:

48(1) For the purposes of this Act, the place of residence is governed by the following rules:

(a) the residence of a person is the true, fixed, permanent home or lodging place to which, when he is absent, he has the intention of returning;

(b) a person does not lose his residence by leaving his home for a temporary purpose;

(c) if a person leaves the area with the intention of making his residence elsewhere, he loses his residence within the area;

(d) the place where a person's family resides is deemed to be his place of residence unless he takes up or continues his abode in some other place with the intention of remaining there;

(e) the residence of a single person is the place where he occupies a room as a regular lodger or to which he habitually returns not having any other permanent lodging place;

(f) a person is deemed not to have a residence in more than 1 place and if he maintains residences within the boundaries of more than 1 local jurisdiction, ward or voting subdivision he must declare 1 as his residence for the purpose of this Act.

282 Certified copies

(1) A copy of a bylaw, resolution or record of a municipality having endorsed on it a certificate purporting to be signed by a designated officer, stating that the copy is a true copy, is admissible in evidence as prima facie proof of it without proof of the bylaw, resolution or record or the appointment or signature of the designated officer.

(2) When a copy of a bylaw or resolution so certified has been filed with the clerk of the court, the court must take judicial notice of it in respect of any action brought in the court.

283 Exercise of functions and rights

A person is only entitled to perform a function or exercise a right under this Act if the person

(a) has been a resident of the municipality for the 6 consecutive months immediately preceding the day on which the function is performed or the right is exercised, and

(b) is a resident of the municipality on the day the function is performed or the right exercised,

unless otherwise provided or permitted by this Act.

284 Regulations Act does not apply to directives

The *Regulations Act* does not apply to directives of the Minister under this Act.

PART 9

TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS

Division 1

Charters

285 Calgary charter

The provisions of the Calgary Charter relating to the land, buildings, plants and equipment of the water supply and distribution system commonly known as the Glenmore Dam, and the provisions relating in particular to the assessment and taxation thereof by the Municipal District of Springbank continue to apply.

286 Edmonton charter

The provisions of the Edmonton Charter relating to

(a) the exclusive franchise for the sale of natural gas are held by Northwestern Utilities Limited, and

(b) exemptions and fixed taxation for hotels contained in subsection 35 of section 221 of the Edmonton Charter,

continue to apply.

287 Royal Alexandra Hospital

The Royal Alexandra Board of Governors, incorporated by section 35 of chapter 9 of the Statutes of Alberta, 1963, continued as a corporation under the name "Royal Alexandra Hospital" and without restricting the powers it may exercise the corporation, subject to the

bylaws from time to time of the City of Edmonton and any Act or regulation made under Act, may

(a) manage, control and operate the Royal Alexandra Hospital, Edmonton, and other hospitals that it is authorized to manage, control and operate,

(b) own any or all of the real property and personal property from time to time constituting the Royal Alexandra Hospital and any other hospital that it is authorized to manage, control and operate, with the power to deal with and dispose of the property in the ordinary course of managing, controlling and operating the hospitals or any of the, and

(c) carry on educational activities and provide educational facilities related to the care and treatment of persons suffering illness, injury or disability or relating to the promotion of health and in particular, but not so as to restrict the generality of the foregoing, conduct a school of nursing.

288 Variation of provision

If a special provision or exception is applicable to an individual city, the provisions of this Act are to be varied only insofar as may be necessary to give effect to the special provision or exception.

289 Continuation of existing bodies

A corporation that is incorporated or continued as a corporation by the provisions of any city charter or any Act for the purpose of operating or administering a sinking fund, hospital, exhibition, or for any purpose continues to be a corporation and to have the same constitution and to perform and exercise the same duties and powers that were conferred on it by or pursuant to the city charter or Act.

Division 2

Transition from the former Act to this Act

290 Definitions

In this Part

(a) "*former Municipal Government Act*" means the Municipal Government Act, being chapter M-26 of the Revised Statutes of Alberta;

(b) "former *Municipal Taxation Act* means the Municipal Taxation Act, being chapter M-31 of the Revised Statutes of Alberta.

291 Transitional regulations

The Minister may make regulations

(a) respecting the conversion of anything from the former Municipal Government Act or former Municipal Taxation Act to this Act;

(b) to deal with any difficulty or impossibility resulting from this Act or the transition from the former Municipal Government Act or former Municipal Taxation Act to this Act.

292 Annexations in process

An annexation application made but not completed when this section comes into force is to continue until the matter is finally decided as if this Act had not come into force and the former Municipal Government Act had stayed in force.

293 Authorizations

Licences, permits, approvals and authorizations issued under bylaws made under the former Municipal Government Act continue as if they had been made by bylaws under this Act.

294 Bylaws

A bylaw passed by a municipality under the former Municipal Government Act continues with the same effect as if it had been passed under this Act.

295 Resolutions and other decisions

Resolutions and other decisions made by or in respect of a municipality or a council under the former Municipal Government Act continue with the same effect as if they had been made under this Act.

296 Municipalities continued

A city, town, village, summer village or municipal district in existence immediately before the coming into force of this section

(a) continues as a municipality with same status under this Act, and

(b) has the same functions, powers and duties of a municipality established under this Act,

as if incorporated under this Act.

297 Long term supply contracts and franchises

Add provision to continue long term supply contracts, exclusive rights and

franchises, subject to the special provisions of this Act which may affect them.

NOTE TO READER: Other transitional provisions will be developed.

Division 3

Amendments to other Acts needed as a consequence of this Act

NOTE TO READER:

1 There are approximately 114 Acts which will need reviewing as a result of this Act. Many of those will need to be amended to remove or avoid conflicts and inconsistencies.

2 At this stage the Municipal Statutes Review Committee has not undertaken a comprehensive review of the affected Acts although where amendments have been identified they are outlined in the following list.

298 Alberta Corporate Income Tax Act

(1) Section 87 of the *Alberta Corporate Income Tax Act* is amended by this section.

(2) Amend the section to the following effect:

When the parties to a reciprocal insurance exchange established under the Insurance Act are local authorities as defined in the Local Authorities Election Act, or municipal associations, the insurance business transacted through the exchange is exempt from the tax imposed under section 87 of the Alberta Corporate Income Tax Act.

Agricultural Chemicals Act
Agricultural Pests Act
Agricultural Relief Advances Act
Agricultural Service Board Act
Alberta Energy Company Act
Alberta Government Telephones Act
Alberta Mortgage & Housing Corporation Act

Alberta Municipal Financing Corporation Act
Alberta Research Council Act
Alberta Sport Council Act
Amusements Act
Assessment Appeal Board Act
Assured Income for the Severely Handicapped Act
Border Areas Act
Cemeteries Act
Cemetery Companies Act
City Transportation Act
Clean Air Act
Clean Water Act
Companies Act
Condominium Property Act
Crown Cultivation Leases Act
Crown Property Municipal Grants Act
Crowsnest Pass Municipal Unification Act
Dairy Industry Act
Daylight Saving Time Act
Department of Municipal Affairs Act
Department of Public Works Supply & Services Act
Drainage Districts Act
Electric Power & Pipe Line Assessment Act
Expropriation Act
Family & Community Support Services Act
Fire Prevention Act
Forest and Prairie Protection Act
Gas Utilities Act
Health Insurance Premiums Act
Highway Traffic Act
Historical Resources Act
Hospitals Act
Hydro & Electric Energy Act
Improvement Districts Act
Interpretation Act
Irrigation Act
Jury Act
Labour Relations Act

299 Land Titles Act

(1) The *Land Titles Act* is amended by this section.

(2) Amend the *Land Titles Act*

(a) (perhaps) by vesting title to roads in the Crown or a city when the plan of subdivision is registered in the land titles office (but

no certificate would be issued); (see s85 LTA)

(b) if section 72.1 (certificates of title for closed roads) is deficient, amend it to resolve deficiency;

(c) to allow a certificate of title to be issued for that portion of a road that is required to support a development over or under a road;

(d) check s65(1)(c).

Land Agents Licensing Act
Land Surface Conservation and Reclamation Act
Landlord and Tenant Act
Law of Property Act

300 Law of Property Act

Amend section 60 to make it clear that it is subject to the adverse possession section of this Act.

Legal Profession Act
Libraries Act
Licensing of Trades and Businesses Act
Liquor Control Act
Litter Act
Livestock Diseases Act

301 Local Authorities Board Act

(1) Amendments will be required to take into account the provisions of this Act.

(2) Sections 120-122 may need revising.

302 Local Authorities Election Act

NOTE TO READER:

1 Some of the sections in the Division dealing with the composition of councils overlap with sections of the *Local Authorities Election Act.*

2 For example the term of office of 3 years is stated in the Division and in sections 8 and 9 of the LAEA.

3 Note also s31(2) of LAEA concerning change of status recommendation if there are insufficient nominations.

4 Consequential amendments will be needed to resolve conflicts.

Local Tax Arrears Consolidation Act
Maintenance Order Act
Medical Profession Act
Mobile Home Sites Tenancy Act
Motor Transport Act
Motor Vehicle Administration Act
Municipal Debentures Act
Municipal and Provincial Properties Valuation Act
Municipal and School Administration Act
Municipal Tax Exemption Act
Municipalities Assessment & Equalization Act
New Towns Act
Northeast Alberta Regional Commission Act
Nursing Service Act
Occupational Health and Safety Act
Off-Highway Vehicle Act
Optometry Profession Act
Pipeline Act

303 Planning Act

Amend section 140(3) to prohibit councillors from voting if they are absent from <u>all</u> of the public hearing preceding the vote.

Plumbing and Drainage Act
Police Act
Police Officers Collective Bargaining Act
Property Tax Reduction Act
Provincial Court Act
Public Contributions Act
Public Health Act

304 Public Highways Development Act

(1) The *Public Highways Development Act* is amended by this section.

(2) Amendments would

(a) vest the title of roads outside cities in the Crown;

(b) vest the title of roads in cities in the City (unless it disposes of the highway to the Crown);

(c) consequentially amend section 3(3), as required;

(d) provide for temporary and permanent road closures by a council (unless sections 46-47 of the Act are already sufficient);

(e) provide for title to be issued by the Registrar of Land Titles;

(f) add a section similar to section 47 to permit a city council to permanently close a highway, subject to advertising;

(g) allow municipalities that do not own their roads, to permit structures to overhang roads and also to allow excavations, construction or development to occur under a road (with consent of the Minister);

(h) allow the lease of air space over roads not owned by the municipality and leases for support of development over or close to roads.

NOTE TO READER:

1 Because the *Public Highways Development Act* already deals with road closures (temporary and permanent) there seems no need to deal with them in this Act.

2 The vesting of title to roads might be better in the *Land Titles Act*, but query ownership of 'bridges' - is it clear?

(i) if it is needed, give authority to municipalities who do not own roads to permit structures overhanging the highway or excavating or developing under it;

NOTE TO READER: Roads are owned by the Crown or the City. Some roads are under the direction, management or control of other municipalities by agreement.

It seems the Crown could grant the municipality authority to permit overhangs, excavations and developments without this provision. Similarly with the lease of air space above a road.

(j) provide for compensation for road closures if section 28 of the Act is not sufficient. As that section only deals with controlled highways an equivalent may be needed for other kinds of roads - but is it in fact?

NOTE TO READER: All references to snow fences are omitted from this draft because the matter is adequately covered in section 49 of the *Public Highways Development Act*. The only inadequacy may be the right of an owner to remove snow fences at the cost of the Crown or municipality.

If this is to be included then it should be included as an amendment to section 49 of the *Public Highways Development Act*

Public Lands Act
Public Safety Services Act

305 Public Utilities Board Act

The Act will need to be reviewed to see what amendments are needed in view of the municipality utility provisions in this Act.

Railway Act

306 (Proposed new) Real Property Assessment Act

(1) Include in the proposed *Real Property Assessment Act* the following:

__ Assessor

(1) Every municipality must appoint a person as an assessor who is a member in good standing of the Alberta Assessors Association.

(2) When an assessor is appointed the municipality must give the deputy minister of Municipal Affairs written notice of the appointment.

(2) Include in this Act or *Alberta Assessment Appeal Board Act* a requirement that

Every municipality must give the Alberta Assessment Appeal Board access to all documents or information in the possession or power of the municipality, and copies of those documents or any other information free of charge to the Board.

Recreation Development Act
Regional Municipal Services Act
Regulations Act
Rural Gas Act
School Act
School Buildings Act
Seed Control Area Act
Senior Citizens Housing Act
Social Care Facilities Licensing Act
Social Development Act
Soil Conservation Act
Special Areas Act
Summary Conviction Act
Surveys Act
Teachers' Retirement Fund Act
Teaching Profession Act

307 Water, Gas and Electric Act

The Act will need to be reviewed to see what amendments are needed in view of the municipality utility provisions in this draft.

Division 4

Repeal and coming into force

308 Repeal of former Act

The *Municipal Government Act* is repealed on a date to be fixed by Proclamation.

309 Coming into force

This Act comes into force on a date to be fixed by Proclamation.

Schedule 1

Commonly used words and phrases in the Act

Division 1

Definition of words

1 Words defined

In this Act

"***business***" means

(a) a commercial merchandising or industrial activity or undertaking

(b) a profession, trade, occupation, calling or employment, and

(c) an activity providing goods or services,

whether or not for profit and in whatever form the business is practised;

NOTE TO READER: This definition is not settled. It is under review in the context of its use in respect of business licensing and municipal taxation.

"***by-election***" means an election held to fill a vacancy on council other than at a general election;

"***chief administrative officer***" means the person or persons appointed by a council to perform the functions, duties and powers of the chief administrative officer;

"***chief elected official***" means the person elected or appointed as head of the council whether known as the mayor, reeve or by another name;

"***council***" means

(a) the council of a city, town, new town, village, summer village, municipal district, special municipality, county, park town under the *Park Towns Act*, or municipality incorporated by special Act, and

(b) where the context allows, the Minister of Municipal Affairs in respect of an improvement district and special area;

"***council committee***" means a committee established by council composed entirely of councillors, a mixture of councillors and others, or a committee composed entirely of persons who are not councillors;

"***councillor***" means a member of council, including the chief elected official;

"***designated officer***" means the person appointed by a council to perform the functions, duties and powers of a designated officer, but if no person is appointed it means the chief administrative officer;

"***elector***" means a person eligible to vote at an election under the *Local Authorities Election Act*;[1]

"***general election***" means an election held for all councillors to fill vacancies caused by the effluxion of time;[2]

---

1 A person is eligible to vote in an election under the Local Authorities Act if he or she

(a) is at least 18 years old,

(b) is a Canadian citizen, and

(c) has resided in Alberta for the 6 consecutive months immediately preceding election day and is resident in the area on election day

unless another enactment requires the person to be a proprietary elector.

2 This is the same definition as the Local Authorities Election Act s1(l).

NOTE TO READER: There may be a technical problem to be sorted out with the Local Authorities Election Act. That Act applies to councils under the Municipal Government Act and county councils.

If council is defined in this draft as the council of any municipality there may need to be adjustments (or at least a review for problems in) the Parks Towns Act, New Towns Act and the specially incorporated municipalities.

"***land***" means physical land or an estate or interest in land, or both, as the context requires;

"***Minister***" means the Minister of Municipal Affairs;

"***municipal associations***" means the Alberta Association of Municipal Districts and Counties, the Alberta Urban Municipalities Association, the Association of Summer Villages of Alberta and the Improvement Districts Association of Alberta;

"***municipality***" means

(a) either

(i) a city, town, village, summer village, municipal district and special municipality,

(ii) a new town under the *New Towns Act*,

(iii) a county under the *Counties Act*,

(iv) a park town under the *Park Towns Act*,

(v) a municipality incorporated by special Act,

(vi) an improvement district under the *Improvement Districts Act*, and

(vii) a special area under the *Special Areas Act*,

or

(b) the geographic area inside the boundaries of the entities described in clause (a),

whichever the context requires;

"***owner***" means

(a) in respect of land, the person who is registered under the Land Titles Act as the registered owner of a parcel, or

(b) in respect of other property, the person in lawful possession of it;

"***parcel***" has the same meaning as it has in the Planning Act;[3]

"***population***" means

(a) the population of an area based on the most recent figures compiled under section 27 of the *Property Tax Reduction Act*,[4] or

---

3 The Planning Act defines "parcel" in section 1(o) as

> (o) "parcel" means the aggregate of the one or more areas of land described in a certificate of title or described in a certificate of title by reference to a plan filed or registered in a land titles office;

4 Section 27 of the Property Tax Reduction Act reads:

> *27(1) On or before September 1 in each year, in the form prescribed by the Minister, each local authority (other than the Minister or a summer village) shall forward to the Deputy Minister of Municipal Affairs an affidavit of the clerk setting out the population and any other relevant information pertaining to the municipality required by the Minister for the calculation of grants under this Part.*
>
> *(2) The Deputy Minister of Municipal Affairs shall submit to the Minister in respect of each improvement district and special area the information required under subsection (1).*
>
> *(3) The population figure referred to in subsection (1) shall be compiled either*
>
> > *(a) by the taking of an actual census by the local authority between April 1 and June 30 of that year if the census so taken is subsequent to the latest population census taken pursuant to the Statistics Act (Canada), or*
> >
> > *(b) by the latest population census under that Act.*
>
> *(4) If any local authority fails to provide the information required under subsection (1), the Minister may*

(b) if there are no figures, the population determined by the Minister;

"***public utility***" means a system or works requiring a road or other public place for its construction, operation or maintenance, which provides for public consumption, benefit, convenience or use

(a) water or steam;

(b) sewage disposal;

(c) public transportation;

(d) irrigation;

(e) a distribution of natural or artificial gas;

(f) electric power;

(g) heat;

(h) anything else specified by a council;

"***roads***" has the same meaning as "public roadway" in the *Planning*

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for the purpose of this Part utilize any population and other information pertaining to the municipality available to him.

(5) If a local authority has been incorporated or established after the distribution of grants of the preceding year and before the calculation of the grants of the current year, the population of the municipality shall be determined in accordance with subsection (3)(a) or, in the case of counties, municipal districts, improvement districts or special areas, may be determined by the Minister in accordance with township populations as shown by the latest population census under the Statistics Act (Canada).

(6) The population figures and other relevant information applicable to the calculation of a grant under this Part are, at the discretion of the Minister, subject to adjustment in accordance with the addition or withdrawal of land to or from the municipality and the Minister may require a local authority to submit a census return and any other relevant information prior to January 31 next following the date on which the local authority received notice of the requirement.

(7) The population figures and other relevant facts that are to be used in calculating a grant to the City of Lloydminster shall be the figures applicable to that portion of the city within Alberta.

Act,[5] and includes a pedestrian walkway or right of way;

"***taxpayer***" means a person whose name appears on the taxroll of a municipality as a person liable to pay tax.

Division 2

Definition of phrases

2 "The whole council"

(1) "***The whole council***" means the total number of positions on council, including the position of chief elected official, whether or not there are any vacancies on council, unless subsection (3) or (4) applies.

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5 The *Planning Act* definition is:

(p.1) "public roadway" means

(i) in a city, town, new town, village or summer village, the right of way of all or any of the following:

(A) a local road,

(B) a service road,

(C) a street,

(D) an avenue, or

(E) a lane,

that is publicly used or intended for public use,

(ii) in a county, municipal district, improvement district or special area, the right of way of all or any of the following:

(A) a controlled street or rural road as defined in the Public Highways Development Act, or

(B) a service road or a lane that is intended for public use,

(iii) a road, street or highway designated as a secondary road pursuant to the Public Highways Development Act, except those secondary roads numbered between 900 and 999,

and includes a public right of way on which no motor vehicle, as defined in the Motor Vehicle Administration Act, is permitted to operate;

(2) If a council does not hold a by-election during a period described in section 95 or for a reason stated in section 93, the phrase "the whole council" means the number of councillors remaining in office, whether or not there are vacancies in the remaining positions.

(3) If the Minister orders a lesser number of councillors to constitute a council, the phrase "the whole council" means the lesser number ordered by the Minister.

3 The power to "regulate"

The power of a council to "regulate" or of "regulating" or "regulation" by passing bylaws includes the power

(a) to prohibit, or

(b) to manage, operate and control,

in whatever way the council considers to be most appropriate.

4 General rules for incorporation

The ***"general rules for incorporation"*** or ***"general rules for its incorporation"*** means the general rules established for incorporating the kinds of municipalities referred to in section 32 as the rules are modified, if at all, by the Minister for what is in the Minister's opinion a justifiable reason.

Schedule 2

Municipal co-operation procedures

1 Application for initiation of co-operation procedures

After trying to resolve matters in dispute with another municipality, a municipality may apply in writing to the Minister for the initiation of municipal co-operation procedures and must notify any other municipality concerned accordingly.

2 Issues Report

On receipt of an application or on otherwise being satisfied that municipal co-operation procedures should be initiated the Minister may

(a) determine and inquire into the issues,

(b) determine which municipalities may be affected by the issues and obtain their opinion, and

(c) prepare an issues report,

and the Minister shall send a copy of the issues report to the chief elected official of each affected municipality.

3 Municipal Co-operation Committee

(1) The Minister may direct that each affected municipality appoint, within a time stipulated, the number of its councillors that the Minister considers appropriate to be members of a Municipal Co-operation Committee.

(2) The purpose of the Committee is to negotiate and recommend solutions on behalf of the municipality about the issues identified in

the report within any policy guidelines the Minister prescribes.

(3) If an affected municipality does not appoint councillors within the time stipulated by the Minister, the Minister may name the appropriate number of councillors of the municipality as members of the Committee.

(4) The Minister, after consultation with the Presidents of the relevant municipal associations, must appoint a person as facilitator to

(a) chair the Committee,

(b) facilitate resolution of the issues, and

(c) report to the Minister by the date directed by the Minister.

(5) The Minister must fix and pay the remuneration and expenses of the facilitator.

4 Report of facilitator

(1) After consultation with the Municipal Co-operation Committee the facilitator must

(a) prepare a negotiation timetable to enable completion of the report by the date directed by the Minister,

(b) prepare and submit to the Minister and the chief elected official of each affected municipality one or more reports setting out

(i) the municipalities affected by each issue,

(ii) the extent of agreement within the Committee on the issues,

(iii) any solutions which the Committee has developed for the issues,

(iv) the facilitator's recommendations to the Minister with respect to further consideration of the issues, and

(v) such other matters as the facilitator considers appropriate.

(2) If a report of the facilitator identifies a municipality not represented on the Committee as being affected by an issue, the Minister must direct the municipality to appoint councillors to the Committee and section 3 applies to their appointment.

5 Consideration of report

(1) On receipt of a report of the Chief Negotiator, each affected municipality must hold one or more public meetings to inform the public and hold public discussion about the contents of the report.

(2) Within 90 days after submission of the report by the facilitator, or within any earlier time that the Minister directs, each affected municipality must inform the Minister in writing of its opinion on each issue and solution proposed.

(3) If a municipality fails to provide its written opinion to the Minister within the required time the municipality is deemed to support the entire report.

6 Objections to report

If a municipality objects to the report the Minister may

(a) refer any issue on which an objection has been received to the Municipal Co-operation Committee for further consideration,

(b) refer any issue on which an objection has been received to an Issues Review Panel,

(c) direct that the recommendations of the report, or any

amendment of them that the Minister considers appropriate, be carried out, or

(d) take any other action the Minister considers appropriate, or

(e) terminate further consideration of the issue.

7 Issues Review Panel

(1) The Minister, in consultation with the Presidents of the municipal associations, may constitute one or more Issues Review Panels for purposes of this Schedule, composed of 3 members each.

(2) An Issues Review Panel must consider issues referred to it by the Minister and must

(a) invite submissions in writing from and consult with any affected municipality or person, and

(b) report to the Minister its recommendations on each issue referred to it by the date required by the Minister.

(3) A report by an Issues Review Panel may recommend

(a) actions to be taken to resolve an issue, or

(b) termination of further consideration of an issue.

(4) The Minister must fix and pay the remuneration and expenses of the members of an Issues Review panel.

8 Municipal Co-operation Committee Report

(1) When it is received by the Minister, the report of the Municipal Co-operation Committee is

(a) the report of the facilitator, if no objections are received to it

under this Schedule, or

(b) the report of the facilitator and the report of the Issues Review Panel.

(2) When the Minister receives the report of the Committee, the Minister may

(a) give directions to the affected municipalities necessary to take action to give effect to the contents of the report, with or without modifications, or

(b) terminate further consideration of any of the issues.

(3) If the Minister decides to terminate further consideration of an issue another application for municipal co-operation procedures may not be made with respect to the same issue until at least one year has passed from the date of the Minister's decision.

Schedule 3
Examples of how the Act works

This schedule contains a list of examples illustrating or indicating what the bylaw making powers mean.

The examples are intended to illustrate or indicate the way the Act works, they are not intended to be an exhaustive description of the application of the sections illustrated.

In the event of conflict between the other sections of the Act and an example contained in this Schedule, the other sections prevail.

* * *

Illustrations of bylaw making authority

Spheres of jurisdiction		*Examples*
the protection of persons and property and the regulation of nuisances	*(i)*	*regulate hazards, dangerous activities, or things to be prevented or removed, (including clearing sidewalks of snow and ice),*
	(ii)	*authorizing removal of dangerous or hazardous things by municipal employees at the cost of the person named in the bylaw,*
	(iii)	*establish fire protection areas in rural municipalities,*
	(iv)	*requiring drainage ditches to be kept clear of obstructions and allowing municipal action if they are not cleared.*
the regulation of *. activities and other things in public places, and* *. activities at and matters related to gatherings of the public for any public or private purpose, other than in private dwelling houses*	*(i)*	*speed limits and pedestrian crosswalks,*
	(ii)	*regulating activities or other things at or near intersections or along roads which could limit visibility or distract drivers - e.g., growth of trees; lights which might affect the impact of traffic lights; signs and posters impairing visibility.*

	(iii)	*parks control and management.*
	(iv)	*permits for parades, exhibitions, shows or events,*
	(v)	*security and medical personnel at sports events or contests.*
the regulation of transport and transportation systems	*to the extent that it is not in conflict with a law of the Parliament of Canada, the regulation of airports, floatplane bases, and railways, and the operation of them including*	
	(i)	*regulation of speed of trains across roads,*
	(ii)	*regulation of municipal airports.*
the regulation of business, business activities and persons engaged in business	(i)	*regulating and licensing taxis,*
	(ii)	*business licensing generally,*
	(iii)	*opening and closing hours of retail businesses.*
the regulation of wild and domestic animals and activities in relation to them		
the provision and regulation of municipal services, public utilities or other activities that are necessary or desirable for persons and property	(i)	*transportation services and systems;*
	(ii)	*water supply, distribution, drainage and irrigation, services and systems;*
	(iii)	*electrical, gas and communications services and systems;*
	(iv)	*sanitary sewage collection, treatment and disposal services and systems;*
	(v)	*solid and other waste collection, disposal and recycling services and systems;*
	(vi)	*cemetery crematorium and columbarium services*

the regulation of any activity or thing that endangers or affects the safety, health or convenience of others	
providing for and regulating the raising of revenue or the recovery of expenditures by imposing fees, costs, rates, levies or charges for services or other activities of the municipality	*(i) the fees, dues, charges or levies payable for and licence, permit, approval or other authorization;* *the fees, dues, charges or levies payable for anything provided or done by or on behalf of the municipality or for any service or assistance;* *(ii) the method by which fees, dues, charges or levies or the cost of services or assistance are to be calculated or assessed and collected, the persons by whom and when they are to be paid, penalties or interest for non-payment or late payment of money payable and discounts or other benefits for early payment;* *(iii) describing how the costs can be collected, including by adding them to taxes payable in respect of property owned by the person responsible for paying the costs;*
enforcement of bylaws, inspections for and remedy of contraventions including either or both of the following . *the creation of offences, and on summary conviction, the imposition of penalties not exceeding $10,000 for each offence,* . *on summary conviction, the imprisonment of persons for not more than one year for contravention of a bylaw or non-payment of a fine, or both*	*Fines imposed by a bylaw* *(i) can specify a minimum and maximum range applicable to second and subsequent offences;* *(ii) can be a minimum daily fine for every day that the offence continues (after conviction?);* *(iii) provide that when conviction is for non-payment of fees payable to the municipality under a bylaw, the Court may order payment of the fee in addition to the fine and costs;* *(iv) enact the procedure for payment to the designated official of an amount which may be accepted by the municipality in place of proceeding with prosecution.* *A council may pass a general penalty bylaw for contravention of any bylaw or any number of specified bylaws.* *If the voluntary payment of a fine is authorized under section 42*

		of the Provincial Offences Procedure Act,1 a council may allow for discounting the fine for prompt payment, and the amount of the discount must be specified in the bylaw.
the procedure and conduct of council and councillors and their functions, powers and duties, and the establishment, operation and functions of council committees and other bodies	*(i)*	*procedural bylaw,*
	(ii)	*rules of order at council and other meetings,*
	(iii)	*appointment of standing and executive committees.*
the organization, administration and management of the municipality, the delegation of functions, duties and powers, and providing for subdelegation, and generally for the good government of the municipality	*(i)*	*management, administrative and personnel policies and line of authority,*
	(ii)	*signing authorities,*
	(iii)	*delegations and subdelegations of authority, and appointment of deputies and acting officers.*
	(iv)	*allows names and numbers of houses or dwelling units to be given out and displayed,*
	(v)	*allows roads and ares to be named.*
within its bylaw making authority a council may make bylaws with the same effect and to the same extent that the Legislature can make law	*(i)*	*a system of granting permits, approvals, licences or similar authority and prohibiting any development, activity, industry, business or thing until the licence, permit, approval or authority has been granted,*
	(ii)	*the one or more persons, including the council, having authority to issue a permit, approval, licence or authority, whether terms and conditions may be*

1 The Provincial Offences Procedure Act section 42 reads:

42 A local authority may make by-laws and, in the case of an improvement district or a special area, the Minister of Municipal Affairs may make orders,

(a) respecting the offences under a by-law or ministerial order, as the case may be, in respect of which a voluntary payment may be made;

(b) prescribing the amounts of the specified penalties payable in respect of offences referred to in clause (a).

imposed and, if so, the nature of them and who may impose them;

(iii) *conditions that must be met before a permit, approval, licence or authority is granted or renewed, the nature of them and who may impose them if they are not specified in the by-law;*

(iv) *provisions governing the duration and the suspension or cancellation of a licence, permit, approval or other authority for failure to comply with a term or condition or the bylaw or for any other reason specified in the bylaw;*

(v) *providing for an appeal in respect of any matter referred to in bylaws, the body to decide the appeal and related matters;*

(vi) *prescribe forms or authorize them to be prescribed.*

Bylaws can prohibit or regulate

(i) *development, activity, industry, business or things in different ways and may divide each of them into classes and regulate each class in different ways;*

(ii) *generally any act or thing collateral or incidental to the exercise of a bylaw making power.*

Schedule 4

Business Revitalization Zones

1 Definitions

In this Schedule

(a) "***board***" means a board of directors established under section 2;

(b) "***Business Revitalization Zone***" means a Business Revitalization Zone designated under section 2.

2 Designation of Business Revitalization Zone

(1) On the joint request of at least 10 persons in an area who are shown on the current assessment roll of a municipality as being assessed for business assessment, a council may, pass a bylaw

(a) designating the area as a Business Revitalization Zone and prescribe its boundaries, and

(b) establishing a board of directors for the Business Revitalization Zone.

(2) Notice of the intention of the council to pass a bylaw under subsection (1) must be mailed to every person in the area who is shown on the current assessment roll of the municipality as being assessed for business assessment with respect to that area.

(3) No bylaw under subsection (1) shall be passed where the council receives a petition objecting to the passing of the bylaw signed by persons entitled to notice representing at least one-third of the business assessment in the area and the petition has been filed with the designated official within 60 days from the day on which the last notice was mailed.

(4) Where the council is prevented from passing a bylaw by reason of a petition under subsection (3), the council may, on the expiration of 2 years from the day on which the petition was received, again proceed under this section to designate the area as a Business Revitalization Zone.

(5) If a council that has not passed a business tax bylaw under the Municipal Taxation Act receives a request for the establishment of a Business Revitalization Zone from at least 10 persons representing businesses operating in an area, the council may pass a business tax bylaw with respect to the area of the municipality for the purposes of this Schedule and then proceed in accordance with this section to consider a business revitalization zone bylaw.

(6) The provisions of Part 7 (Finance) with respect to business tax apply with all necessary modifications to a bylaw passed under subsection (5).

3 Board of Directors

(1) A board is a corporation consisting of the following persons appointed by council

(a) one or more members of council, and

(b) such number of individuals nominated by any of those persons referred to in section 2 as may be set out in the bylaw.

(2) The council may remove any person appointed under subsection (1) and may appoint another person.

(3) If a vacancy occurs in the membership of the board, the council must appoint a person who is eligible under subsection (1) to fill the vacancy.

4 Purpose of Board

The purposes of a board may include all or any of the following

(a) to improve, beautify and maintain municipally owned lands, buildings and structures in the area, in addition to any improvement, beautification or maintenance that is provided at the expense of the municipality at large,

(b) to acquire real property necessary for its purposes and improve, beautify and maintain that property,

(c) to promote the area as a business or shopping area,

(d) to undertake interim improvement and maintenance of any property it acquires for use as parking and subsequently to dispose of that property for public or private redevelopment for commercial purposes at a price not less than its fair market value,

(e) to conduct any studies or prepare any designs that may be necessary for the purposes of this section.

5 Capital Projects

(1) In this section "capital project" means a capital project for any of the purposes referred to in section 4(a), (b) or (d) and includes the preparation of designs for the project.

(2) At the request of a board, a council may pass a bylaw authorizing the undertaking by the municipality of a capital project in a Business Revitalization Zone.

(3) If a council receives a request from a board requesting a capital project in a Business Revitalization Zone, the council must give notice of its intention to undertake the capital project to be published, and (section 157 of the *Municipal Taxation Act*) applies as though the capital project were local improvements under that section.

(4) After notice has been given under subsection (3), a council may by bylaw authorize the issue of debentures to finance the undertaking of a capital project in a Business Revitalization Zone.

6 Levy to pay for debentures

(1) When debentures are issued to finance a capital project, the council, in each year of the currency of the debentures, must pass a bylaw authorizing a levy on all business assessments in the area at a uniform rate that the council considers sufficient to raise the amount required for the payment of the annual instalments of principal and interest on the debentures, unless subsection (2) applies.

(2) A council may, in a bylaw, provide that a portion of the cost of annual instalments of principal and interest is to be borne by the municipality at large, but if the portion of the cost to be borne by the municipality at large exceeds 50% of the estimated costs, the assent of the ratepayers must be obtained.

(3) Notwithstanding subsection (1) and (2), where it appears to the council that the proposed facilities or structures will be of benefit to only a portion of a Business Revitalization Zone, the bylaw authorizing the issue of debentures shall specify the portion so benefiting and the levies imposed under this section is to be imposed only on the business assessments within that portion for the Business Revitalization Zone.

(4) The levies authorized under subsection (1)

(a) are in addition to the levies specified in section 8, and

(b) must be imposed by the council during the currency of any debentures issued under subsection (1) even though the bylaw establishing the Business Revitalization Zone is repealed.

(5) If a capital project is undertaken in a Business Revitalization Zone, the board may enter into an agreement with the municipality respecting the maintenance and operation of the capital project.

(6) Subject to subsection (2), a bylaw passed under this Schedule does not require the assent of the proprietary electors, but the bylaw has no effect until it has received the approval of the Local Authorities Board.

(7) The term of a debenture under this section must not exceed 10 years.

(8) A council may, by bylaw,

(a) authorize the municipality to finance a capital project by the use of reserves or other funds of the municipality and allow the municipality to impose interest charges in the same manner as if the funds were borrowed under a debenture, or

(b) authorize a system of levies that is a modification of the system of levies provided for in this section.

7 Finance

(1) At the time and in the form prescribed by the council, a board shall submit to the council for its approval the estimates of the board for the current year and may request of the council any sums of money required to carry out its powers and duties.

(2) On receipt of the estimates, the council shall provide, in the form and manner it considers adequate, to every person assessed for business purposes in the area, notice of the estimates and the date and place of the council meeting at which the estimates will be considered.

(3) On approval of all or part of the estimates, the council shall direct the payment of the approved amount to the board.

(4) The board shall expend only money included in the estimates approved by the council and any member of the board who authorizes the expenditure of money not previously approved by the council is guilty of an offence and liable to a fine of not more than $500.

(5) No indebtedness extending beyond the current fiscal year shall be

incurred by a board.

(6) In addition to the amount paid under subsection (3), the council may contribute to the board funds

(a) from money collected from the municipality at large, or

(b) from money collected as payments pursuant to an off-street parking levy pursuant to the *Planning Act* if that money is used for the purposes described in section 4(d).

(7) The board shall include in its estimates any funds

(a) contributed by a council pursuant to subsection (6), or

(b) received from the disposal or conveyance of real property for commercial development,

but no such funds shall be used for the promotion of the area as a business or shopping centre or for studies relating thereto.

8 Business Revitalization Zone levy

(1) Subject to those maximum and minimum charges that the council may specify in the bylaw, the council shall authorize, by bylaw, the levy, on all business assessments in the area, of a uniform rate that the council considers sufficient to raise the amount required for the purposes of section 7.

(2) Any levy imposed under subsection (1) may be collected in the same manner and with the same remedies as provided in the (*Municipal Taxation Act*) for the collection of taxes on business assessments but the limitations imposed by section 82(3) of that Act[1] do not apply to

1 Section 82(3) of the *Municipal Taxation Act* reads:

82(3) The business tax payable in respect of any business assessed on a rental basis shall be the percentage of the assessed value, not in excess of a total of 25%, specified by the by-law.

a bylaw under this subsection.

(3) In addition to the levy under subsection (1), the council may, by bylaw, provide that the sum required for any specific activity of the board shall be raised by a special benefit levy on the business assessment of those businesses considered by the council to receive a special benefit and the provisions of the *Municipal Taxation Act* with respect to local improvement taxes apply to a special benefit levy under this subsection.

(4) The designated official shall include in the general roll the businesses that are subject to a Business Revitalization Zone levy.

9 Annual Report and Records

(1) On or before March 1 in each year a board shall submit its annual report for the preceding year to the council and that report shall include a complete audited financial statement of its affairs, with a balance sheet and a revenue and expenditure statement.

(2) All records of a board are open to inspection by the municipal auditor.

(3) A board may

(a) appoint one of its members

(b) hire any person, or

(c) by agreement with the council, rely on the municipality

to maintain records and for making and receiving payments.

10 Amendment of boundaries

(1) A council may, by bylaw, amend the boundaries of a Business Revitalization Zone.

(2) The provisions of section 2(2) and (3) apply to a bylaw under this subsection with respect to any business proposed to be added to the area.

(3) A bylaw under this section comes into force on the next January 1 after it is passed.

11 Repeal of bylaw

(1) A bylaw passed pursuant to section 2(1) may be repealed by a bylaw of the council to take effect on December 31 in the year in which it is passed.

(2) The provisions of section 2(2) and (3) do not apply to a bylaw under this section.

(3) If a bylaw passed pursuant to section 2(1) is repealed, the board ceases to exist and its undertakings, assets and liabilities must be assumed by the municipality.

Schedule 5

Model bylaw adopting a revision of bylaws

Revised Bylaws Adoption Bylaw
(or other appropriate title)

1 ***Declaration of revised bylaws in force***

The revised bylaws of . . . . .lodged in the municipal office with (name of office), known as bylaw numbers _____ to _____ are declared to be, and are, the bylaws of the municipality called "(insert appropriate title)" as if the bylaws were expressly included in this bylaw.

2 ***Coming into force of revised bylaws***

The revised bylaws come into force on . . . . .

3 ***Bylaws repealed***

The bylaws listed in Appendix 1 are repealed.

4 ***Dead law not revived***

The repeal of bylaws listed in Appendix 1 does not revive any bylaw previously in force.

5 ***Effect of revised bylaws***

(1) *The revised bylaws are not new law but have effect as a consolidation of the bylaws for which they are substituted.*

(2) *The provisions of the revised bylaws corresponding to and substituted for the previous bylaws, when they have the same effect, operate retrospectively as*

well as prospectively and are deemed to have been passed respectively on the days on which the corresponding previous bylaws came into force.

(3) If the provisions of the revised bylaws do not have the same effect then

(a) for all transactions, matters and things on and after the day the revised bylaws came into force the provisions contained in them prevail, but

(b) with respect to all earlier transactions, matters and things the provisions of the previous bylaws prevail.

6 References to repealed bylaws

A reference

(a) in bylaws passed before the coming into force of the revised bylaws and remaining in force after that time, or

(b) in any instrument or document to any bylaw repealed by this bylaw,

is, after the revised bylaws take effect, to be considered, in respect of any subsequent transaction, matter or thing, to be a reference to the bylaw in the revised bylaws having the same effect as the repealed bylaw.

7 Printing and distribution

The revised bylaws are to be printed and published in such style and form as . . . . . directs.

Appendix
(list of bylaws repealed)